

Social Security Administration

§ 405.210

(b) If you move from one State to another after your disability claim has been filed, adjudicators at subsequent levels of review will apply the regulations applicable at the time of such subsequent review in the State where you filed the disability claim.

[73 FR 2415, Jan. 15, 2008]

Subpart B—Initial Determinations

§ 405.101 Disability determinations.

The State agency will adjudicate your claim using the applicable procedures in subpart Q of part 404 or subpart J of part 416 of this chapter or both and will apply subpart P of part 404 or subpart I of part 416 of this chapter or both. The disability examiner will make a determination based on all of the evidence. The written determination will explain in clear and understandable language the specific reasons for and the effect of the initial determination. It will also inform you of your right to review by a Federal reviewing official and your right to representation.

[71 FR 16446, Mar. 31, 2006, as amended at 72 FR 51178, Sept. 6, 2007]

§ 405.105 [Reserved]

§ 405.110 [Reserved]

§ 405.115 Notice of the initial determination.

We will mail a written notice of our initial determination to you at your last known address. The written notice will explain in simple and clear language what we have determined and the reasons for and the effect of our determination. If our determination involves a determination of disability that is in whole or in part unfavorable to you, our written notice also will contain in understandable language a statement of the case setting forth the evidence on which our determination is based. The notice also will inform you of your right to review by a Federal reviewing official and explain your right to representation. We will not mail a notice if the beneficiary's entitlement to benefits has ended because of his or her death.

[72 FR 51178, Sept. 6, 2007]

§ 405.120 Effect of an initial determination.

An initial determination is binding unless—

- (a) You request review by a Federal reviewing official within the 60-day time period stated in § 405.210 of this part, or
- (b) We revise the initial determination under subpart G of this part.

Subpart C—Review of Initial Determinations by a Federal Reviewing Official

§ 405.201 Reviewing an initial determination—general.

If you are dissatisfied with the initial determination on your disability claim, you may request review by a Federal reviewing official.

§ 405.210 How to request review of an initial determination.

(a) *Written request.* You must request review by filing a written request. You should include in your request—

- (1) Your name and social security number,
- (2) If you have filed a claim for benefits based on disability under title II of the Act under an account other than your own, the name and social security number of the wage earner under whose account you are filing,
- (3) The reasons you disagree with the initial determination on your disability claim,
- (4) Additional evidence that you have available to you, and
- (5) The name and address of your representative, if any.

(b) *Time limit for filing request.* We will review an initial determination if you request review in writing no later than 60 days after the date you receive notice of the initial determination (or within the extended time period if we extend the time as provided in paragraph (d) of this section).

(c) *Place for filing request.* You should submit a written request for review at one of our offices. If your disability claim is under title II of the Act, you may also file the request at the Veterans Administration Regional Office in the Philippines, or if you have 10 or more years of service, or at least five

§ 405.215

years of service accruing after December 31, 1995, in the railroad industry, an office of the Railroad Retirement Board.

(d) *Extension of time to request review.* If you want us to review the initial determination on your disability claim, but you do not request review timely, you may ask us for more time to request review. Your request for an extension of time must be in writing and must give the reasons the request for review was not filed, or cannot be filed, in time. If you show us that you have good cause for missing the deadline, we will extend the time period. To determine whether good cause exists, we will use the standards explained in § 405.20 of this part.

§ 405.215 Procedures before a Federal reviewing official.

(a) *General.* The Federal reviewing official will review existing evidence and accept and obtain new evidence in order to make a decision on your claim. The decision will be based on all evidence in the record.

(b) *Developing the record.* If you have additional evidence that you did not submit with your request for review, you should submit that evidence to the Federal reviewing official as soon as possible. If there is additional evidence that you wish to submit and you are having difficulty obtaining it, the Federal reviewing official may issue a subpoena for the evidence using the process and standards described in § 405.217. If the Federal reviewing official determines that additional evidence is necessary, we may obtain such evidence from other sources, including the State agency.

(c) *Seeking State agency clarification.* In reviewing your claim, if the Federal reviewing official determines that additional information, beyond that provided by the claimant, is necessary, the Federal reviewing official may obtain it from other sources, including the State agency or a treating source. The State agency will provide such clarification or additional information to the Federal reviewing official on a timely basis. In such circumstances, the Federal reviewing official will retain the authority to make the deci-

20 CFR Ch. III (4-1-08 Edition)

sion as to whether or not you are disabled.

§ 405.217 Subpoenas.

(a) When it is reasonably necessary for the full presentation of a claim, we may issue subpoenas for the production of any documents that are relevant to an issue before the Federal reviewing official.

(b) To have documents subpoenaed, you must file a written request for a subpoena with us.

The written request must:

(1) Identify the documents with sufficient detail to find them;

(2) State the important facts that the document is expected to show; and

(3) Indicate why these facts could not be shown without that document.

(c) We will pay the cost of issuing the subpoena.

(d) Within five days of receipt of a subpoena, the person against whom the subpoena is directed may ask us to withdraw or limit the scope of the subpoena, setting forth the reasons why the subpoena should be withdrawn or why it should be limited in scope.

(e) Upon failure of any person to comply with a subpoena, the Office of the General Counsel may seek enforcement of the subpoena under section 205(e) of the Act.

§ 405.220 Decision by the Federal reviewing official.

(a) The Federal reviewing official will make a decision based on all of the evidence. The written decision will explain in clear and understandable language the specific reasons for the decision, including an explanation as to why the Federal reviewing official agrees or disagrees with the rationale in the initial determination.

(b) Before making his or her decision, the Federal reviewing official may consult with a medical, psychological, or vocational expert through the Medical and Vocational Expert System if the Federal reviewing official determines that such consultation is necessary. If the Federal reviewing official disagrees with the initial determination, or if you submit, or the Federal reviewing official otherwise obtains, new and material medical evidence, the Federal reviewing official will consult with a