

not involved in making the initial determination. The individual who conducts the hearing will make the final decision after the hearing. If you are dissatisfied after we have made a final decision, you may file an action in Federal district court.

(a) *Notice scheduling the telephone hearing.* Once you request a telephone hearing, we will schedule the hearing and send you a notice of the date and time of the hearing at least 20 days before the hearing. The notice will contain a statement of the specific issues to be decided and tell you that you may designate a personal representative (as defined in 42 CFR 423.772) to represent you during the proceedings. The notice will explain the opportunity and procedure for reviewing your file and for submitting additional evidence prior to the hearing. It also will provide a brief explanation of the proceedings, of the right and process to subpoena witnesses and documents, of the procedures for requesting a change in the time or date of your hearing, and of the procedure for requesting interpreter services.

(b) *Opportunity to review your file.* Prior to the telephone hearing, you will be able to review the information that was used to make an initial determination in your case. You can provide us with additional information you wish to have considered at the hearing.

(c) *Hearing waived, rescheduled, or missed.* If you decide you do not want a hearing by telephone or if you are not available at the time of the scheduled hearing, the decision in your case will be made by a case review. This means that the decision will be based on the information in your file and any additional information you provide. You may ask for a change in the time and date of the telephone hearing; this should be done at the earliest possible opportunity prior to the hearing. Your request must state your reason(s) for needing the change in time or date and state the new time and date you want the hearing to be held. We will change the time and date, but not necessarily to your preferred time or date, of the telephone hearing if you have good cause. If you miss the scheduled hearing and the decision in your case is decided by a case review, we will provide

a hearing, at your written request, if we decide you had good cause for missing the scheduled hearing. Examples of good cause include, but are not limited to, the following:

(1) You have attempted to obtain a representative but need additional time;

(2) Your representative was appointed within 30 days of the scheduled hearing and needs additional time to prepare for the hearing;

(3) Your representative has a prior commitment to be in court or at another administrative hearing on the date scheduled for your hearing;

(4) A witness who will testify to facts material to your case would be unavailable to participate in the scheduled hearing and the evidence cannot be obtained any other way;

(5) You are unrepresented, and you are unable to respond to the notice of hearing because of any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) that you may have; or

(6) You did not receive notice of the hearing appointment.

(d) *Witnesses at hearing.* When we determine that it is reasonably necessary for the full presentation of a case, we may issue a subpoena to compel the production of certain evidence or testimony.

§ 418.3630 How do you request administrative review?

(a) *Time period for requesting review.* You must request administrative review within 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 (c) of this section). You can request administrative review in person, by phone, fax, or mail. If you miss the time frame for requesting administrative review, you may ask us for more time to request a review. The process for requesting an extension is explained further in paragraph (c) of this section.

(b) *Where to file your request.* You can request administrative review by mailing or faxing a request or calling or visiting any Social Security office.

(c) *When we will extend the time period to request administrative review.* If you want a review of the initial determination but do not request one within 60 days after the date you receive notice of the initial determination, you may ask us for more time to request a review. Your request for an extension must explain why it was not filed within the stated time period. If you show us that you had good cause for missing the deadline, we will extend the time period. To determine whether good cause exists, we use the standards explained in § 418.3640.

§ 418.3635 Can anyone request administrative review on your behalf?

Your personal representative (as defined in 42 CFR 423.772) may request administrative review on your behalf. That person can send additional information to us on your behalf and participate in the hearing.

§ 418.3640 How do we determine if you had good cause for missing the deadline to request administrative review?

(a) In determining whether you have shown that you have good cause for missing a deadline to request review we consider:

- (1) What circumstances kept you from making the request on time;
- (2) Whether our action misled you;
- (3) Whether you did not understand the requirements of the Act resulting from amendments to the Act, other legislation, or court decisions; and
- (4) Whether you had any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which prevented you from filing a timely request or from understanding or knowing about the need to file a timely request for review.

(b) Examples of circumstances where good cause may exist include, but are not limited to, the following situations:

- (1) You were seriously ill and were prevented from contacting us in person, in writing, or through a friend, relative, or other person.
- (2) There was a death or serious illness in your immediate family.

(3) Important records were destroyed or damaged by fire or other accidental cause.

(4) You were trying very hard to find necessary information to support your claim but did not find the information within the stated time periods.

(5) You asked us for additional information explaining our action within the time limit, and within 60 days of receiving the explanation you requested a review.

(6) We gave you incorrect or incomplete information about when and how to request administrative review.

(7) You did not receive notice of the initial determination.

(8) You sent the request to another Government agency in good faith within the time limit and the request did not reach us until after the time period had expired.

(9) Unusual or unavoidable circumstances exist, including the circumstances described in paragraph (a)(4) of this section, which show that you could not have known the need to file timely, or which prevented you from filing timely.

§ 418.3645 Can you request that the decision-maker be disqualified?

The person designated to conduct your hearing will not conduct the hearing if he or she is prejudiced or partial with respect to any party or has any interest in the matter pending for decision. If you object to the person who will be conducting your hearing, you must notify us at your earliest opportunity. The Commissioner or the Commissioner's designee will decide whether to appoint another person to conduct your hearing.

§ 418.3650 How do we make our decision upon review?

After you request review of our initial determination, we will review the information that we considered in making the initial determination and any other information we receive. We will make our decision based on this information. The issues that we will review are the issues with which you disagree. We may consider other issues, but we will provide you with advance