

**§ 283.19**

request, objection, or other question to the Judicial Officer, but not both.

**§ 283.19 ALJs.**

(a) *Assignment.* No ALJ shall be assigned to serve in any appeal who:

(1) Has any pecuniary interest in any matter or business involved in the appeal,

(2) Is related by blood or marriage to any party in the appeal, or

(3) Has any conflict of interest which might impair the ALJ's objectivity in the appeal.

(b) *Disqualification of ALJ.* (1) Any party to the appeal may, by motion, request that the ALJ withdraw from the appeal on one or more of the grounds set out in paragraph (a) of this section. Such motion shall set forth with particularity the alleged grounds for disqualification. The ALJ may then either rule upon or certify the motion to the Judicial Officer, but not both.

(2) The ALJ may withdraw from any appeal for any reason deemed by the ALJ to be disqualifying.

(c) *Powers.* (1) Subject to review as provided elsewhere in this part, the ALJ, in any assigned appeal, shall have the power to:

(i) Rule upon motions and requests;

(ii) Set the time and place of a pre-hearing conference and the time of the hearing, adjourn the hearing from time to time, and change the time of the hearing;

(iii) Administer oaths and affirmations;

(iv) Regulate the scope and timing of discovery;

(v) Issue and enforce subpoenas as authorized under 7 U.S.C. 2023(a) and these rules;

(vi) Summon and examine witnesses and receive evidence at the hearing;

(vii) Appoint expert witnesses in accordance with the provisions of Rule 706 of the Federal Rules of Evidence;

(viii) Admit or exclude evidence;

(ix) Hear oral argument on facts or law;

(x) Upon motion of a party, decide cases, in whole or in part, by non-oral hearing procedures under subpart C of this part where there is no disputed material issue of fact;

(xi) Perform all acts and take all measures necessary for the mainte-

nance of order, including the exclusion of contumacious counsel or other persons;

(xii) Take all other actions authorized under the Act and these rules, including the extension of time upon motion of a party or *sua sponte* for cause shown.

(2) The ALJ may not rule upon the validity of Federal statutes or regulations.

(d) *Who may act in the absence of the ALJ.* In case of the absence of the ALJ or the ALJ's inability to act, the powers and duties to be performed by the ALJ under these rules of practice in connection with any assigned appeal may, without abatement of the appeal, unless otherwise directed by the Chief Judge, be assigned to any other ALJ.

**§ 283.20 Review by the Judicial Officer.**

(a) *Filing of review petition.* (1) Within 30 days after service of the ALJ's initial decision, or any part thereof, any party may seek Judicial Officer review of such decision by filing a review petition with the Hearing Clerk. However, if another party files a motion for reconsideration under § 283.17(d), consideration of the review petition shall be stayed automatically pending resolution of the motion for reconsideration. If a motion for reconsideration is timely filed, a review petition may be filed within 30 days after the ALJ denies the motion or issues a revised initial decision, whichever applies.

(2) As provided in § 283.15(h), objections made before the ALJ regarding evidence or regarding a limitation on examination or cross-examination or other ruling may be relied upon in a Judicial Officer review.

(3) Each issue set forth in the review petition, and the arguments thereon, shall be plainly and concisely stated; and shall contain detailed citations to the record, statutes, regulations or authorities being relied upon in support thereof. A brief in support may be filed simultaneously with the review petition.

(b) *Response to review petition.* Within 30 days after service of a copy of a review petition and any brief in support thereof, any other party to the proceedings may file a response in support