

## The Continuing Education (CE) Activity for Non-Attorney Representatives Course Summary

**Course Title:** Program Uniformity at the Hearing and Appeals Council Levels

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**Presentation Length:** 37 minutes 4 seconds

### Summary

This course provides continuing education to eligible for direct payment non-attorney (EDPNA) representatives on their roles and responsibilities involving the Social Security Administration's (SSA) final rule, "Ensuring Program Uniformity at the Hearing and Appeals Council Levels of the Administrative Review Process."

### Objectives

- Understand why we revised our rules and how the revisions impact cases at the hearing and Appeals Council levels of our administrative review process.
- Know our timeframe for notifying claimants of a hearing date.
- Understand the representative's role in helping to develop the evidentiary record.
- Know the deadline for informing us about or submitting evidence at the hearing level.
- Understand how we evaluate evidence you inform us about or submit less than five days before the hearing, at the hearing, or after the hearing.
- Understand the Appeals Council's authority to review a case based on additional evidence.
- Understand when the Appeals Council will provide a protective filing date for a new application.

### Key Points

- The regulation changes were effective January 17, 2017. However, compliance with the new procedures was not required until May 1, 2017.
- The revisions to our regulations lengthen the timeframe for notifying claimants of a hearing date to 75 days.
- The claimant or the representative must make every effort to ensure that the ALJ receives all of evidence and generally must inform us about or submit all written evidence that is not already in the record no later than five business days before the date of the scheduled hearing.
- When the ALJ receives evidence less than 5 days before the date of the scheduled hearing, or after the hearing, and was not timely informed of the evidence, he or she will determine whether an exception to the five-day rule is met and will rule on whether to admit the evidence.

- The Appeals Council will only review a case based on additional evidence if the claimant shows that he or she had good cause for missing the five-day deadline, and the evidence is new, material, and relates to the period on or before the date of the hearing decision and there is a reasonable probability that the additional evidence would change the outcome of the decision.
- The Appeals Council will offer a protective filing date in certain circumstances.

## References

- **Code of Federal Regulations:**
  - 20 CFR [404.935](#) and [416.1435](#). Submitting written evidence to an administrative law judge.
  - 20 CFR [404.938](#) and [416.1438](#). Notice of a hearing before an administrative law judge.
  - 20 CFR [404.939](#) and [416.1439](#). Objections to the issues.
  - 20 CFR [404.949](#) and [416.1449](#). Presenting written statements and oral arguments.
  - 20 CFR [404.950](#) and [416.1450](#). Presenting evidence at a hearing before an administrative law judge.
  - 20 CFR [404.970](#) and [416.1470](#). Cases the Appeals Council will review.
  - 20 CFR [404.1512](#) and [416.912](#). Responsibility for evidence.
- **Federal Register:**
  - [81 FR 90987](#) Ensuring Program Uniformity at the Hearing and Appeals Council Levels of the Administrative Review Process
- **Hearings, Appeals and Litigation Law Manual:**
  - [HALLEX I-2-5-13](#). Claimant Informs Hearing Office of Additional Evidence
  - [HALLEX I-2-5-78](#). Use of Subpoenas – General
- **Social Security Ruling:**
  - SSR [17-4p](#): Titles II and XVI: Responsibility for Developing Written Evidence
- **SSA Website:**
  - Best Practices for Claimants' Representatives:  
[www.ssa.gov/appeals/best\\_practices.html](http://www.ssa.gov/appeals/best_practices.html)