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Expedited Dismissal Procedure for Abandonment

Nationally, about 17% of Social Security disability cases are dismissed because the claimant – usually unrepresented - has abandoned the case, having returned to work, lost interest, or moved and left no forwarding address. In many urban hearing offices, the dismissal rate is significantly higher.

Any work put into these cases – obtaining evidence, organizing the file, reading the file – is a waste of scarce resources.

The object of this proposal is to resolve these cases as early in the process as possible, before significant resources are expended on them.

Recommended Process To Dispose of Abandoned Cases:

This process will only apply to disability cases with fewer than 500 pages of medical records in the file. On the day of the hearing, a team consisting of an ALJ, a senior attorney and a clerk will work together to sort out and expedite potentially abandoned cases. On the designated hearing day, the senior attorney will meet with the claimants and the clerk will be available to prepare the file if necessary.

Procedure:

- Compile a list of unrepresented claimants in the judge's docket. Have the clerk check the address of each claimant to insure that the office has their last-known address.
- Schedule hearings for 8 cases a day from this list, as follows: four at 8:30 am, 2 at 11:30 am, and 2 at 2:00 pm. Make sure that a follow up notice of hearing ("Important Reminder") is also sent.
- Don't prepare the case file or send for documents for these cases. Include in the Notice of Hearing that the claimant must obtain and bring to the hearing a printout from his/her pharmacy(ies) which lists the name of all drugs, dates dispensed, dosages, quantities, and the names of the prescribing providers, from the alleged onset date of disability to the present.
- An estimated 30% of the claimants will not appear on the hearing day. These cases can be dismissed on the day of the hearing, provided that the Important Reminder was sent out in advance.
- If the claimant does appear, the senior attorney shall advise the claimant of the right to representation (there is a script for a pre-hearing conference that can be used) and have the

claimant sign the advice form so that it can be exhibited. Also, have the senior attorney review the medical evidence in the record with the claimant to see if anything is missing. The pharmacy printout can be used as a memory jogger. Advise the claimant that all medical evidence must be obtained in order for a judge to make and issue decision. Have the senior attorney obtain signed record release/HIPA authorizations and a list of treating sources. Advise the claimant that he/she can obtain the records faster than SSA, but if the claimant requires assistance in securing medical records, the hearing office clerk should be contacted at once.

- The claimant will then be brought before the judge, at which time the claimant can decide if he/she wants to get a representative or if he/she wants to proceed with the hearing that day.
- In those cases where the claimant decides to get a representative or otherwise does not want to go ahead with the hearing on that date, return the case to the queue to be worked up and pulled under the usual procedures. At this point, SSA will have fresh authorizations and a list of current treating sources.
- Where the claimant wishes to go ahead with the hearing that day (and there should only be a few of these cases), have the claimant return to the waiting room for the hearing to be held within a few hours.
- Give the file to a clerk who will immediately pull the case and bring it to the claimant to be reviewed.
- The judge will also review the case at that point, assisted by the report of the senior attorney who has reviewed the evidence in the file with the claimant.
- There will be a delay of about two hours while the case is organized and reviewed.
- Once the file is organized and reviewed by the judge, the hearing can be held.
- If VE or ME testimony is needed, an interrogatory can be sent. Or – have a VE on tap by phone (someone who is already scheduled with other judges that day, who can fill in when not in other hearings; the VE does not have to be present throughout the hearing, but can testify after the claimant is through with his/her testimony).

Savings

Approximately 17% of cases are dismissed because the claimant does not appear for the hearing, does not wish to go ahead with the claim, or has not kept the office apprised of a current address.

Of the 650,732 dispositions issued in FY16 (SSA figure), 110,624 could be subject to dismissal early in the adjudicatory process, before significant resources are expended.

Time Savings

A judge spends one to two hours reviewing a case file with fewer than 500 pages of medical evidence, for an average of 1.5 hours per case. The potential savings in judicial time by expediting the dismissal process would be:

165,936 judge hours

It takes a clerk approximately two hours to prepare a case file for hearing by organizing the exhibits and sending for updated records. Thus, applying this figure to the 110,624 cases files that would not have to be prepared, the clerical hours that could be saved by using the expedited dismissal procedure would be:

221,248 clerical hours

Savings in Terms of Dollars

Translated into dollars, with the average ALJ hourly rate of \$77.68, the Agency savings represents:

\$12,889,909

Translated into dollars, using an average clerical hourly rate of \$25, the Agency savings is worth:

\$5,531,200

Total Savings:

\$18,421,109