

hearings at remote hearing sites, which are generally at least 75 miles from a hearing office, to accommodate those individuals who do not live near a hearing office.

Approximately 40 percent of hearings are held at remote hearing sites.

To make travel to remote hearing sites as cost effective as possible, hearing offices wait until they have a sufficient number of requests for hearing to schedule a full day or, if travel to a remote hearing site requires an overnight stay, several days of hearings. Because of the need to accrue a docket, ALJs travel to some remote hearing sites infrequently. Because many remote hearing sites are in less-populous areas, it can be difficult to find a needed medical and/or vocational expert witness(es) to travel to these sites, and this difficulty may further delay scheduling a hearing. ALJs also travel from their assigned hearing offices to assist other hearing offices when the need arises.

Whether to conduct hearings at remote sites or assist other hearing offices, the time ALJs spend traveling could be used to perform other adjudicatory responsibilities.

In 1996 we published Social Security Ruling (SSR) 96-10p, Electronic Service Delivery (61 FR 68808, December 30 1996). In SSR 96-10p, we explained that we planned to explore ways for claimants to interact with us electronically. We also explained that we would not require claimants to work with us electronically, but that we would use technology to provide options for different service deliveries. VTC was one of the technologies we identified as having the potential to improve claimant service. VTC provides real-time transmission of audio and video between two or more locations and permits individuals to see, hear, and speak with each other as though they were at the same location.

As we explained in the Notice of Proposed Rulemaking (NPRM) that we published concerning these rules (66 FR 1059, January 5, 2001), we decided to propose conducting hearings by VTC based on testing conducted in the State of Iowa that demonstrated that VTC procedures can be effectively used where large scale, high quality VTC networks exist and claimants want to participate in VTC procedures because doing so reduces the distances they must travel to their hearings. In reaching that decision, we considered and discounted the results at two other test sites, Albuquerque-El Paso and Huntington-Prestonburg, because the tests at those sites offered no travel

benefits to the claimants and resulted in low participation rates.

In the testing of VTC that we have been conducting since 1996 in the State of Iowa, which has a large VTC network, no one electing use of VTC procedures has had to travel more than about 20 miles from his or her home to have a hearing, and the travel typically required of claimants currently is only about 5 miles. The rate of claimant participation in the Iowa test currently exceeds 95 percent; that is, over 95 percent of the claimants offered a hearing using VTC procedures agree to the use of those procedures.

In a survey of participants in the Iowa test, a large percentage of the respondents rated hearings using VTC procedures as "convenient" or "very convenient," and overall service as either "good" or "very good." Test data showed that processing time for these hearings was substantially less than for hearings conducted in person at remote sites during the same time period, and that the ratio of hearings held to hearings scheduled was significantly higher for hearings using VTC procedures than for hearings conducted in person. Being able to hold hearings as scheduled increases our efficiency because we do not have to recontact the individual to determine why he or she did not appear at a scheduled hearing nor reschedule the hearing (which can be time consuming, especially when an expert witness(es) has been scheduled to testify). Further, an ALJ does not spend time waiting for someone who does not appear, as would be the case in a hearing conducted in person at a remote site.

Based on all these factors—claimant satisfaction, ability to provide more timely hearings, savings in ALJ travel time, faster case processing, and higher ratio of hearings held to hearings scheduled—we decided that conducting hearings by VTC is an efficient service delivery alternative. We also decided that scheduling a hearing for use of VTC, rather than asking someone to elect a hearing using VTC, as we have been doing in our testing of VTC, would improve hearing office efficiency and would permit us to provide faster access to a hearing for some individuals.

We plan to begin using VTC facilities in the servicing area of a hearing office when the Associate Commissioner for Hearings and Appeals determines that appearances at hearings conducted in the area can be conducted more efficiently by VTC than in person. We foresee initially scheduling VTC appearances where absent use of VTC:

- We would need to accrue a docket for a remote hearing site.

- An ALJ would need to travel to assist another hearing office.

- An expert witness(es) or appropriate medical specialist(s) would not be available for a hearing site. (In such a case, all participants could be at different locations; for example, the ALJ at a hearing office, the individual at a remote hearing site or another hearing office, and the expert witness(es) at a third location.)

At first, we plan to locate most remote sites for using VTC to conduct appearances either in space where we have a long-term lease or in another federal building. We are investigating sharing VTC facilities with other federal agencies and states, and, if we can ensure privacy, we may eventually rent commercial space to expand use of VTC as a service delivery option. Calling into SSA's VTC network from private facilities, such as facilities owned by a law firm, may also be possible. Regardless of the type of facility, we will make certain that:

- The individual has the same access to the hearing record when appearing by VTC as he or she would have if appearing in person before the ALJ.

- There is a means of transmitting and receiving additional evidence between all locations and all participants.

- An assistant is present at the VTC site to operate the equipment and provide other help, as required.

- The audio/video transmission is secure and the individual's privacy is protected.

We will follow the same procedures for audiotaping hearings that we conduct using VTC that we do for hearings where all the participants appear in person. We have no plans to videotape hearings in which a party or a witness appears by VTC. Should there be a problem with the VTC equipment, before or during a hearing, we will reschedule the hearing as we do now when unforeseen circumstances require us to reschedule a hearing: at the earliest time possible based on the request for hearing filing date.

We reserve the right not to schedule an appearance by VTC for someone who asks to appear by VTC. In many locations, especially in the near term, we may not have the capability to accommodate the request, and the ALJ may determine that an appearance must be conducted in person even where VTC capability exists. As access to VTC expands, we will generally accommodate requests to appear by VTC as space and time permit.

Despite the fact that conducting hearings by VTC has the potential to improve service, we will not require any