

language of current paragraph (b). For reasons previously discussed, paragraph (d) of the final rules does not include, as the comparable language of the proposed rules did, language distinguishing between the “site and/or time” of a “video teleconference hearing” and the “time and/or place” of an “in person hearing.”

The claimant’s right to veto his or her appearance by VTC by objecting to it is established in paragraph (e) of §§ 404.936 and 416.1436 of the final rules. The heading for this paragraph is, “Good Cause for changing the time or place.” Paragraph (e) of the final rules follows the language of paragraph (c) of the current rules except for the additions at the beginning of the paragraph that describe both the right of a claimant to object if he or she is scheduled to appear by VTC at the place of the hearing, and the required reaction of the ALJ to such an objection. Those additions make it clear that there is no evidentiary requirement that the claimant must satisfy in establishing this “good cause” condition (such as exists regarding the other “good cause” conditions described in the paragraph). Nor is there any requirement that the claimant state a reason for objecting to appearing by VTC beyond his or her wish not to do so.

The power of the claimant to veto a VTC appearance pertains in these final rules (with request for comment) only to his or her own appearance, not to the appearances of any other party or witness. The decision made in these final rules not to distinguish between hearings as “in-person hearings” or “VTC hearings” makes it possible to preserve the right of claimants to control the manner of their own appearances without expanding that right to include control over the manner in which other individuals make their appearances at the hearing.

The heading assigned to the last paragraph of §§ 404.936 and 416.1436 in the final rules, paragraph (f), is, “Good cause in other circumstances.” The language of this paragraph follows the language of paragraph (d) of the current §§ 404.936 and 416.1436.

The final rules make a number of changes in the sections of the regulations that deal with the notice of hearing before an administrative law judge, §§ 404.938 and 416.1438. In the current regulations, these sections consist of a single paragraph that

includes material that deals with the issuance of notices, information included in notices, and acknowledgment of the notice of hearing. In the proposed rules, this material was placed in a paragraph (a) with the heading, “General notice information.” The proposed rules also added a new paragraph (b) with the heading, “Hearing via video teleconferencing [.]” which included material about the scheduling of a “[VTC] hearing” and information included in notices of such hearings. The proposed rules also added a new paragraph (c) with the heading, “For a hearing before an [ALJ],” which discussed the scheduling of an “in-person hearing.” In these final rules, paragraph (a) deals with the issuance of notices and has the heading, “Issuing the notice.” Paragraph (b) deals with information contained in notices, including notices that schedule an appearance or appearances by VTC, and has the heading, “Notice information.” Paragraph (c) deals with acknowledgment of the notice of hearing and has the heading, “Acknowledging the notice of hearing.”

The language of the final rules follows the language of the current rules, except as regards the notice information pertaining to use of VTC procedures and acknowledgment of receipt of the notice of hearing. Paragraph (b) states that the claimant will be told if his or her appearance or that of any other party or witness is scheduled to be made by VTC rather than in person. If we have scheduled the claimant to appear at the hearing by VTC, the notice of hearing will also tell the claimant that the scheduled place for the hearing is a teleconferencing site and explain what it means to appear at the hearing by VTC. The notice will also tell the claimant how to object to appearing by VTC and how to request a hearing at a place for appearing in person. In paragraph (c), the information provided by the current rules regarding acknowledgement of receipt of the notice of hearing is expanded to include a statement explaining that the notice will ask the claimant to return a form acknowledging receipt of the notice. It has long been our practice to include an acknowledgement form with the notice of hearing. We plan to modify the current form to include a check block that claimants may use to object to appearing by VTC.

The final rules also make conforming changes in §§ 404.950 and 416.1450. In paragraph (a) of these sections, we specify that claimants may appear before the ALJ either in person or by VTC, and that if the claimant’s appearance is made by a designated representative, the representative may appear in person or by VTC. In paragraph (e) of these sections, we specify that witnesses may appear at a hearing in person or by VTC.

Additional Comments

We invite your comments on the issue of whether claimants should or should not be empowered to veto use of VTC to take the testimony of expert witnesses. Comments may be submitted by the date and to the addresses shown above.

Electronic Version

The electronic file of this document is available on the Internet at http://www.access.gpo.gov/su_docs/aces/aces140.html. It is also available on the Internet site for SSA (i.e., SSA Online) at <http://www.ssa.gov/regulations>.

Regulatory Procedures

Executive Order 12866, As Amended by Executive Order 13258

The Office of Management and Budget (OMB) has reviewed these rules in accordance with Executive Order 12866, as amended by Executive Order 13258.

Regulatory Flexibility Act

We certify that these rules will not have a significant economic impact on a substantial number of small entities as they affect individuals only. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These final rules contain reporting requirements as shown in the table below. Where the public reporting burden is accounted for in Information Collection Requests for the various forms that the public uses to submit the information to SSA, a 1-hour placeholder burden is being assigned to the specific reporting requirement(s) contained in these rules; we are seeking clearance of the burdens referenced in these rules because the rules were not considered during the clearance of the forms.