Coronavirus Disease 2019 (COVID-19) Disability Determination Services
(DDS) Alternate Duty Station (ADS) Disability Hearing Unit (DHU)
Telephone Hearings Desk Guide

PURPOSE:

Section I DDS Alternate Duty Station (ADS) Telephone Hearing Guidance provides policy guidance for DDS disability hearing officers (DHO) as they conduct telephone disability hearings at alternate duty stations (ADS) during the COVID-19 national emergency.

Section II Sample Scripts for Confirming The Beneficiary’s Or Recipient’s Consent To Appear By Telephone, And Delays By Telephone, And The Delays That Might Result If The Beneficiary Refuses The Telephone Hearing. Section II also explains beneficiary and representative’s options to review disability file as a result of COVID-19 related office closures when he or she requests to do so.

Section III Sample Opening Statement for Telephone Hearing Scripts That Indicates The Disability Hearings Officer Is Conducting The Hearing From Their Private Residence.

I. DDS Alternate Duty Station (ADS) Telephone Hearing Guidance

A. A DHO may conduct a hearing by telephone when extraordinary circumstances prevent the beneficiary or recipient from appearing at the hearing in-person (Reference - DI 33025.085). COVID-19 is an extraordinary circumstance that currently prevents beneficiaries and recipients from attending hearings in person.

DHU hearings conducted by telephone must follow the same format as traditional, in-person hearings (Reference – DI 33015.015). The beneficiary or recipient has the right to appoint a representative, review the record (e.g. – on an encrypted Compact Disc or by encrypted email) prior to the hearing, submit additional evidence, request assistance with obtaining additional evidence, present witnesses, and question any witnesses.

If there are witnesses, the telephone hearing must accommodate them by conference call or by other means, so that the beneficiary or recipient and his or her representative (if appropriate), are able to hear and respond to all testimony.

An interpreter is not required because there is no evidence that the beneficiary or recipient would have an inability to hear, read or speak English (Reference - DI 23040.001).

B. Prior to the DHU telephone hearing, DHOs must advise the beneficiary or recipient and appointed representative, if applicable, verbally or in writing of the following:

- The DHO will conduct the hearing by telephone,
The DHO will conduct the telephone hearing from his or her private residence, taking precautions to protect personally identifiable information (PII), and

The beneficiary or recipient may “opt out” of the telephone hearing.

NOTE: The DHO must document any communication(s) with the beneficiary or recipient (or his or her representative) about appearing by telephone in the disability case file (Reference - DI 20503.001).

C. When DHOs conduct telephone hearings at their ADSs, they must make reasonable and good faith efforts to ensure that no one else is in the room with them during the hearing and that they have disabled all non-Social Security Administration (SSA) approved electronic devices in the home that may be monitoring or recording voices (e.g., smart speakers and devices such as Amazon’s Alexa/Echo, Google Home, Apple’s Siri, and Microsoft’s Cortana) in the area where the hearing is being conducted. If anyone is in the same residence, the DHO will take reasonable precautions to ensure that no one, including children or pets, enters the room while a hearing is in progress. For example, if a child inadvertently enters the room, or there is an emergency requiring the DHO’s attention, the DHO will pause the hearing and wait until the room has cleared before resuming the hearing. The agency recognizes the emergency temporary conditions under which hearings from ADSs are taking place, and accordingly expects DHOs to take precautions in protecting PII and following other agency policies (e.g. – positioning laptops in areas that prevent unauthorized persons from viewing monitors and not leaving devices unattended at your ADS area, even if you plan to return within a few minutes (Reference: DI 39567, DDS Administrator’s Letter No. 997 and SSA’s Information Security Policy (ISP)).

D. DHOs will ask the beneficiary or recipient, representative, and third party participants (e.g., witnesses) to ensure they are in a location without anyone else present. If someone else is present, such as a family member who will testify as a lay witness, or if the beneficiary or recipient and representative are at the same location, please remind everyone that no one can assist anyone else in testifying, including via texting or other personal/private communications during a hearing. Anyone present must identify himself or herself. DHOs will ask all other hearing participants to take the same precautions they are taking themselves to ensure a quiet and private hearing.

E. If the record does not contain a signed form SSA-1696 (Claimant’s Appointment of Representative) or other properly signed notice of appointment for an individual assisting the beneficiary or recipient during the hearing and the beneficiary or recipient indicates that he or she wants that particular person to represent him or her, the DHO will:

1. Assess whether the beneficiary or recipient understands basic information about the appointment (e.g., fee and responsibilities) and confirm that the beneficiary or
recipient wishes to have the representative who is appearing at the hearing via telephone represent him or her.

2. Confirm that the beneficiary or recipient authorizes the agency to disclose his or her personal information to the representative during the hearing and confirm the beneficiary’s or recipient’s intent to sign a written notice of appointment as soon as possible after the hearing.

3. Read the following Privacy Act statement to the beneficiary or recipient:

“Sections 206 and 1631(d) of the Social Security Act, as amended, allow us to collect this information. Furnishing us this information is voluntary. However, failing to provide all or part of the information may prevent us from appointing a representative on your behalf. We will use the information to verify the appointment of your representative and his or her acceptance of the appointment. Additional information and a full listing of all our system of records notices are available on our website at www.socialsecurity.gov/privacy.”

4. Ask the representative to submit a properly executed notice of appointment or the form SSA-1696 as quickly as feasible.

5. Inform the beneficiary or recipient and the representative that their oral attestations are entered into the record, but that the DHO will not make additional post-hearing disclosures or issue a determination until he or she receives an SSA-1696 or valid notice of appointment.

(Section E Reference: EM-20022)

F. DI 33015.005 - Beneficiary (or Recipient) and Representative Review of Claims Folders outlines the procedures for when beneficiary or recipient and representative requests to review of the claims folder.

- Burning a CD from eView:
  - DI 33015.005B2 provides instructions for DHO preparation of a claims folder for review by burning a CD or providing a paper copy of the medical evidence used to make the medical determination.
  - Refer to DI 81001.035 - Copying a Certified Electronic Folder (CEF) for detailed instructions on burning a CD.

- Encrypting medical records by email:
  - Refer to attached Encryption to Email Guide for encrypting disability file by email for DHU hearings.
II. SAMPLE SCRIPT FOR CONFIRMING THE BENEFICIARY’S OR RECIPIENT’S CONSENT TO APPEAR BY TELEPHONE, AND THE DELAYS THAT MIGHT RESULT IF THE BENEFICIARY REFUSES THE TELEPHONE HEARING

Verify the beneficiary or representative’s identity consistent with agency policy. POMS GN 00203.020 and DI 39567.210.

III. SAMPLE OPENING STATEMENT FOR TELEPHONE HEARING SCRIPTS THAT INDICATES THE DISABILITY HEARINGS OFFICER IS CONDUCTING THE HEARING FROM THEIR PRIVATE RESIDENCE
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