

# Table of Contents

## Volume 1

### **PART I. TEXT**

#### **CHAPTER 1. INTERVIEWING THE CLIENT**

- § 1:1 Pre-interview evaluation and screening
- § 1:2 Conducting the interview
- § 1:3 Post-interview evaluation of the claim
- § 1:4 Substantial gainful activity—Step one of the disability review process
- § 1:5 The severity requirement—Step two of the disability review process
- § 1:6 The Listing of Impairments—Step three of the disability review process
- § 1:7 Claimant's residual functional capacity—Step four of the disability review process
- § 1:8 The Grids—Step five of the disability review process
- § 1:9 Vocational expert testimony

#### **CHAPTER 2. WORK-UP AND EVALUATION OF THE CASE**

- § 2:1 Distinguishing the types of disability law
- § 2:2 Insured status computation
- § 2:3 Obtaining medical data and information
- § 2:4 Obtaining physician records
- § 2:5 Getting proper evaluation standard from physician
- § 2:6 Obtaining hospital records
- § 2:7 Obtaining other evidence of disability
- § 2:8 Obtaining objective evidence
- § 2:9 Evaluation of pain
- § 2:10 Obtaining employment or social security records where necessary
- § 2:11 Obtaining and reviewing social security file
- § 2:12 Having client evaluated where necessary
- § 2:13 Administratively initiated evaluation of the claimant
- § 2:14 Checking to see if client has filed other litigation
- § 2:15 Contacting lay witnesses regarding disability
- § 2:16 Travel expenses

### **CHAPTER 3. FILING THE CLAIM—PRE-HEARING STAGE**

- § 3:1 Filing out initial disability forms
- § 3:2 Filing out work history report
- § 3:3 Completing the medical information form
- § 3:4 Powers of the district office
- § 3:5 Filing appearance as attorney
- § 3:6 Role of state agency
- § 3:7 Identifying and dealing with the appropriate state agency
- § 3:8 Utilizing state agencies for claimant's benefit
- § 3:9 Administrative determination
- § 3:10 Filing for reconsideration
- § 3:11 Standards of review on reconsideration
- § 3:12 Going to the district office to review and/or discuss the case
- § 3:13 Filing additional forms
- § 3:14 Supplying additional medical evidence
- § 3:15 Requesting further medical evaluation
- § 3:16 Pros and cons
- § 3:17 Administrative review process for adjudicating initial disability claims
- § 3:18 Role of attorney advisors as decision makers

### **CHAPTER 4. PRE-HEARING PREPARATION**

- § 4:1 Filing request for hearing
- § 4:2 Choosing the forum
- § 4:3 Reviewing file thoroughly
- § 4:4 Evaluating Social Security file to see that it is complete
- § 4:5 Determining insured status date
- § 4:6 Clarifying issues on disability
- § 4:7 Presenting additional medical evidence
- § 4:8 Electing further medical examination
- § 4:9 Requesting further medical examination by the Social Security Administration
- § 4:10 Scheduling pre-hearing review with administrative law judge
- § 4:11 Discussing particular problems with the administrative law judge
- § 4:12 Dealing with possible judicial bias
- § 4:13 Conducting discovery
- § 4:14 Requesting subpoena
- § 4:15 Evaluating the case for the hearing

### **CHAPTER 5. THE HEARING**

- § 5:1 Hearing procedures

## TABLE OF CONTENTS

- § 5:2 Role of the administrative law judge
- § 5:3 Notice of the hearing
- § 5:4 Withdrawal of representation permitted only under extraordinary circumstances
- § 5:5 Appearance at the hearing
- § 5:6 Preparing for the hearing
- § 5:7 Reviewing medical history
- § 5:8 Reviewing prior work status
- § 5:9 Disability claim
- § 5:10 Clarifying type of disability
- § 5:11 Advising the claimant on dress, demeanor and procedures for the hearing
- § 5:12 Preliminaries at the hearing
- § 5:13 Examination of the claimant
- § 5:14 Making a record
- § 5:15 Questioning the medical expert if present
- § 5:16 Questioning the vocational expert
- § 5:17 Using lay witnesses
- § 5:18 Using other witnesses
- § 5:19 Summing up the case
- § 5:20 The policy of non-acquiescence

## **CHAPTER 6. POST-HEARING ACTIVITY**

- § 6:1 Presenting additional evidence
- § 6:2 Worsening of condition
- § 6:3 Submitting post-hearing brief
- § 6:4 Brief on important legal issues—Trial work period
- § 6:5 Cessation of disability benefits
- § 6:6 Res judicata
- § 6:7 Reopening a prior determination
- § 6:8 Overpayments

## **CHAPTER 7. APPEALS COUNCIL**

- § 7:1 How to appeal to the Appeals Council
- § 7:2 When to appeal the case
- § 7:3 Re-evaluate the case
- § 7:4 Submitting additional evidence
- § 7:5 Submitting a brief
- § 7:6 Development of case when client first appears after the hearing
- § 7:7 Oral argument before the Appeals Council
- § 7:8 Appeals Council remand
- § 7:9 Unfavorable decision by the ALJ after remand by the Appeals Council
- § 7:10 Receipt of unfavorable decision from the appeals council

- § 7:11 Own motion review by the Appeals Council of ALJ's reversal
- § 7:12 Appeals Council remand following court remand

## **CHAPTER 8. APPEALS TO UNITED STATES DISTRICT COURTS**

- § 8:1 Access to judicial review
- § 8:2 Scope of judicial review
- § 8:3 Appealable issues
- § 8:4 Procedure: Filing a complaint
- § 8:5 Procedure: Filing a summons by mail
- § 8:6 Procedure: Obtaining an answer and transcript
- § 8:7 Preparing for oral argument
- § 8:8 Standard of review
- § 8:9 The brief
- § 8:10 Relief requested
- § 8:11 Claimant's response to a United States district court's decision
- § 8:12 Post Appeals Council strategy

## **CHAPTER 9. APPEAL TO THE UNITED STATES CIRCUIT COURTS**

- § 9:1 Identifying appellate issues with merit
- § 9:2 Following the proper appellate procedure
- § 9:3 The record and due dates
- § 9:4 Knowing the appellate record
- § 9:5 Preparing the appellate brief
- § 9:6 Presenting oral argument
- § 9:7 Deciding whether to apply for certiorari in the United States Supreme Court

## **CHAPTER 10. ATTORNEY FEES**

- § 10:1 Fees from the initial interview
- § 10:2 Reviewing time and activities after award
- § 10:3 Calculating the fee
- § 10:4 Claiming a fee
- § 10:5 Fee approval and collection
- § 10:6 Fee collection problems
- § 10:7 Fee under the Equal Access to Justice Act (EAJA)
- § 10:8 Section 406(b) fees

TABLE OF CONTENTS

**PART II. DATA PACKET**

**CHAPTER 11. SOCIAL SECURITY  
DISABILITY CLAIMS DATA PACKET**

- § 11:1 Social security disability claims data packet cover sheet
- § 11:2 Social Security disability claims information sheets

**PART III. PROCEDURES**

**CHAPTER 12. INTERVIEWING THE CLIENT**

- § 12:1 Generally

**CHAPTER 13. WORK-UP AND EVALUATION  
OF THE CASE**

- § 13:1 Attorney actions
- § 13:2 Legal assistant/legal secretary actions

**CHAPTER 14. FILING THE CLAIM: PRE-  
HEARING STAGE**

- § 14:1 Generally

**CHAPTER 15. PRE-HEARING  
PREPARATION**

- § 15:1 Generally

**CHAPTER 16. HEARING**

- § 16:1 Generally

**CHAPTER 17. POST-HEARING ACTIVITY**

- § 17:1 Generally

**CHAPTER 18. APPEALS COUNCIL  
PROCEDURE**

- § 18:1 Generally

**CHAPTER 19. APPEALS TO UNITED  
STATES DISTRICT COURTS**

- § 19:1 Generally

## **CHAPTER 20. APPEALS TO THE UNITED STATES CIRCUIT COURTS**

§ 20:1 Generally

## **CHAPTER 21. COLLECTING ATTORNEY FEES**

§ 21:1 Generally

# **PART IV. LETTERS AND FORMS**

## **CHAPTER 22. LETTERS AND FORMS**

### **I. LETTERS**

- § 22:1 Letter requesting medical information (physician)
- § 22:2 Letter requesting medical information (musculoskeletal)
- § 22:3 Letter requesting medical information (visual)
- § 22:4 Letter requesting medical information (heart)
- § 22:5 Letter requesting medical information (pulmonary)
- § 22:6 Letter requesting medical information (digestive)
- § 22:7 Letter requesting medical information (diabetes mellitus)
- § 22:8 Letter requesting medical information (seizure disorder)
- § 22:9 Letter requesting medical information (mental problems)
- § 22:10 Letter requesting medical information (hospital/clinic)
- § 22:11 Letter requesting employer information
- § 22:12 Letter requesting medical information from miscellaneous sources
- § 22:13 Letter of notice of representation to local SSA office
- § 22:14 Letter to state agency accompanying medical records
- § 22:15 Letter to social security office requesting copy of reconsideration denial notice
- § 22:16 Letter requesting reconsideration
- § 22:17 Letter requesting updated medical information (physician)
- § 22:18 Letter of notice of request for hearing
- § 22:19 Letter requesting hearing
- § 22:20 Letter to witnesses requesting presence
- § 22:21 Letter requesting review of hearing decision
- § 22:22 Letter requesting copy of exhibits
- § 22:23 Letter requesting 60 day extension of time to file appeal

## TABLE OF CONTENTS

- § 22:24 Letter requesting consolidation of claims/prior filings
- § 22:25 Letter requesting attorney fees and in support of fee petition (with sample fee petition)

## II. FORMS

- § 22:26 Medical authorization form (physician)
- § 22:27 Medical authorization form (hospital/clinic)
- § 22:28 Witness information
- § 22:29 List of claimant's medication
- § 22:30 Social security disability claims act and explanation of claims process fact sheet for claimant
- § 22:31 Scope of attorney-client relationship agreement
- § 22:32 Scope of attorney-client relationship agreement (model fee language)
- § 22:33 Attorney fees and costs agreement
- § 22:34 Post-interview evaluation checklist
- § 22:35 Selected medical terms keyed to the listing of impairments
- § 22:36 Computation worksheet for insured status.
- § 22:37 Medical catchall report
- § 22:38 Claim development worksheet (claims report)
- § 22:39 Client instruction sheet
- § 22:40 Consolidation and summary of the medical evidence of record
- § 22:41 Assessment of claimant's physical residual functional capacity
- § 22:42 Assessment of claimant's mental residual functional capacity
- § 22:43 Assessment of claimant's vocational considerations
- § 22:44 Lay witness questionnaire
- § 22:45 Interview and hearing questions
- § 22:46 Listing of claimant's exertional and nonexertional impairments and evidentiary assessment of residual functional capacity
- § 22:47 Assessing the need for vocational testimony and formulation of hypothetical questions
- § 22:48 Checklist for closing arguments (making a record)
- § 22:49 Checklist of appealable issues for Appeals Council review
- § 22:50 Checklist of issues for District Court review
- § 22:51 List of appeal issues/pleadings
- § 22:52 Sample: Notice of appeal to United States Circuit Court
- § 22:53 Sample: United States district court order of judgment
- § 22:54 Sample: Proof of service (by mailing)
- § 22:55 Transcript order

## SOCIAL SECURITY DISABILITY CLAIMS

- § 22:56 United States circuit court filing requirements
- § 22:57 Social security fee information
- § 22:58 Sample: Order approving attorney fee
- § 22:59 The musculoskeletal system normal range of motion values
- § 22:60 Mental impairments
- § 22:61 General physical examination

## APPENDICES

- Appendix 1. Regulations

### Volume 2

- Appendix 2. Regulations Regarding Appeal Procedure
- Appendix 3. Analysis of Case Pursuant to Social Security Regulations
- Appendix 4. Sample: Memorandum to Appeals Council
- Appendix 5. Sample: Complaint for Period of Disability Insurance Benefits, and a Copy of Each of Three Summonses Required
- Appendix 6. Sample: Plaintiff's Motion for Reversal or Remand
- Appendix 7. Sample: Complaint for Period of Disability Insurance Benefits and Supplemental Security Income, and Sample Proof of Service
- Appendix 8. Sample: Claimant/Appellant's Brief to United States Circuit Court
- Appendix 9. Sample: Plaintiff's Objections to Magistrate's Report and Recommendation
- Appendix 10. Appointment of Representative Form (SSA-1696)
- Appendix 11. Questionnaire for Children Claiming SSI Benefits (SSA-3881-BK)
- Appendix 12. Work History Report (SSA-3369-BK)
- Appendix 13. Disability Report for Adults (SSA-3368-BK) and Disability Report for Children (SSA-3820-BK)
- Appendix 14. Petition for Reauthorization to Charge and Collect a Fee for Services Before the Social Security Administration (SSA-1560)
- Appendix 14A. Identifying Information for Possible Direct Payment of Authorized Fees (SSA-1695-F3)



## TABLE OF CONTENTS

- Appendix 14B. Request for Appointed Representative’s Direct Payment Information (SSA-1699)
- Appendix 15. Request for Reconsideration (SSA-561-U2)
- Appendix 16. Request for Reconsideration—Disability Cessation Right to Appear (SSA-789)
- Appendix 17. Request for Hearing by Administrative Law Judge (HA-501-U5)
- Appendix 18. Disability Report—Appeal (SSA-3441-BK)
- Appendix 19. Request for Review of Hearing Decision/Order (HA-520-U5)
- Appendix 20. Physical Residual Functional Capacity Assessment (SSA-4734-BK)
- Appendix 21. Claimant’s Guide to Hearing Testimony
- Appendix 22. Abbreviations and Symbols
- Appendix 23. Glossary of Medical Terms
- Appendix 24. Title II—Equal Access to Justice Act
- Appendix 25. Pertinent Social Security Rulings, Excerpts and Abstracts
- Appendix 26. Pertinent Acquiescence Rulings

### **Table of Laws and Rules**

### **Table of Cases**

### **Index**