

REGIONAL

# SSA PROGRAM CIRCULAR

## Supplemental Security Income

No. 02-19

Chicago Region

Date: September 23, 2002

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### PROCESSING SSI FEE PETITION/AGREEMENT CASES

This program circular describes the policies and procedures that pertain to authorization of fees for representatives of SSI claimants under the fee petition/agreement process.

#### FEE PETITION

A fee petition ([GN 03930.001](#)) is a written statement signed by the claimant's representative requesting approval of the fee the representative wants to charge and collect for services he/she provided in pursuing the claimant's benefit rights in proceedings before SSA.

#### Forms of Petition

A representative may petition for fee approval using the Form SSA-1560-U4 (Petition to Obtain Approval of a Fee for Representing a Claimant Before the Social Security Administration), or in a written document that contains the information listed in [GN 03930.020B.3](#).

#### Resolution Below the Hearing Level

In cases below the hearing level, the reconsideration reviewer/senior claims processing specialist (SCPS) within the Processing Center (PC) generally reviews the fee petition and authorizes the fee for services provided in proceedings before SSA. Neither FO nor DDS employees authorize fees under the fee petition process.

#### Fee Petition Jurisdiction

Jurisdiction for fee petitions is as follows:

##### **PSC**

- Title XVI cases based on age; and
- Title XVI only cases based on disability or blindness.
- Title XVI cases based on disability or blindness when the eligible individual or eligible spouse is also entitled to disability insurance benefits and is age 55 or older.

##### **OCO**

- Title XVI cases based on disability or blindness when the eligible individual or eligible spouse is also entitled to disability insurance benefits and is under age 55.

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**Distribution: All FOs/TSCs/ADOs in the Chicago Region**

**Retention Date: September 23, 2003**

## **Receipt and Routing of Fee Petitions**

When you receive the fee petition, take the action(s) shown below:

- **Claim or PE Action Not Decided - Pending Below the Hearing Level**  
If you have the claim file, process the claim or PE action, and then forward the claim file with the fee petition to the reconsideration reviewer/SCPS in the PC having jurisdiction. FOs should follow the routing instructions in [GN 03930.025D](#).

**NOTE: FOs must forward the Title XVI file with the fee petition because the PC fee authorizer cannot evaluate the petition without it.**

If you do not have the claim file, forward the fee petition to the reconsideration reviewer/SCPS in the PC having jurisdiction. FOs should follow the routing instructions in [GN 03930.025D](#).

- **Claim or PE Action Not Decided - Pending At or Above the Hearing Level**  
Forward the claim file with the fee petition to the hearing office or to the Appeals Council. If OHA already has the claim file, forward the fee petition for association.
- **Claim or PE Action Decided - Below the Hearing Level**  
Forward the fee petition, with the claim file if you have it, to the reconsideration reviewer/SCPS in the PC having jurisdiction ([GN 03930.015A](#)).
- **Claim or PE Action Decided - At or Above the Hearing Level**  
Forward the fee petition to the hearing office or to the Attorney Fee Branch (AFB). ([See GN 03930.15B](#), regarding jurisdiction, and [GN 03930.025D](#) for the AFB address.)

## **FEE AGREEMENT**

A fee agreement ([GN 03940.001](#)) is a written statement signed by the claimant and his/her appointed representative specifying the fee the representative expects to charge and collect, and that the claimant expects to pay for services the representative provides in pursuing the claimant's benefit rights in proceedings before SSA.

## **Decision Maker - Favorable Decision in Administrative Proceedings**

The decision-maker is the person who adjudicates the claim or PE action. DDS employees are never decision-makers for the fee agreement process. Decision-makers are as follows:

- Initial Claim Level**
  - Title XVI claims: the CR
  - Concurrent Title II/XVI claims, depending on whether Title II DOFA or non-DOFA, either the CR, or the CA, will make the determination for both titles.
- Reconsideration Level**
  - Title XVI claims: the CR
  - Concurrent Title II/XVI claims; depending on who makes the favorable decisions; for favorably decided claims involving disability in which the Title II claim is DOFA, the Title II CR will make the determination for both titles. When the Title II claim is

non-DOFA, the CA, or reconsideration reviewer/SCPS will make the determination for both titles.

- c. **Hearing Level**  
The Administrative Law Judge (ALJ)
- d. **Appeals Council Review Level**  
The Administrative Appeals Judge (AAJ)

### **Decision Maker - Favorable Decision after Court Remand**

If SSA makes a favorable decision on a court remand case, the decision-maker is either the ALJ or the AAJ who favorably decided the claim(s) or PE action(s).

### **Notice of Determination on the Fee Agreement**

When SSA makes a favorable decision on a claim involving a fee agreement, SSA generally will notify the claimant and the representative about the determination on the agreement in the notice of the favorable decision. If the decision-maker disapproves the fee agreement, the notice also must advise the parties of the right to request administrative review of the determination.

### **Notice of the Authorized Fee Amount**

SSA will authorize the amount of the fee that results from the approved fee agreement and notify the claimant and/or the representative, of the following:

- The past due amount;
- The amount of the past-due benefits payable to the claimant;
- The amount of the fee resulting from the agreement; and
- The right to request administrative review of the amount of the fee within 15 days of receiving the notice.

### **FO Procedures - Favorably Decided Claims**

#### **CR Actions**

#### **Initial and Reconsideration Level**

- Approve or disapprove the fee agreement ([GN 03940.001E](#)).
- Determine the amount of the retroactive payment by examining the payment computation history in the SSID.
- Reduce the retroactive payment amount by any benefits and/or payments that are not considered past-due benefits for representative fee purposes ([GN03940.001B.7](#)). The result is the Title XVI past-due benefits amount.
- Authorize a fee that equals the least of:
  - ◆ 25 percent of the Title XVI past-due benefits; or
  - ◆ The percentage of past-due benefits or the flat fee amount specified in the fee agreement; or
  - ◆ \$5,300.
- Prepare and issue a Title XVI Fee Agreement Notice ([GN 03940.055](#))

## **Title XVI FO Procedures - Systems Controls**

### Title XVI Only - CR Actions

In Title XVI only claims, after completing the procedures in [GN 03940.010](#), take the following actions:

- Add, "**rep, fees**" to the Supplemental Security Record (SSR) case related data (CG) field.
- Annotate the Development Worksheet.
- Complete the representative data in the "**Auth Segment.**"
- File the fee agreement at the top of the non-medical portion of the claims file.

### Concurrent Title II/XVI

The Title II CR will provide the Title XVI CR with a copy of the fee agreement and the Title XVI CR will take the above actions.

If you have questions concerning this program circular, please contact John H. Williams, Program Expert, MOS-CRSI/SSI at (312) 575-4015.