

II-5-1-3. Oral Hearing Upon Remand

Appeals Council Interpretation		
SUBJECT	:	Oral Hearing Upon Remand
ISSUE	:	Under what circumstances should a claimant be offered the opportunity for a hearing following a remand?
DISCUSSION	:	<p>Social Security Administration Regulations at 20 CFR §§ 404.977 and 416.1477 do not explicitly state that a hearing must be held whenever a case is remanded. However, due process requires that the claimant be given an opportunity for a hearing on the entire period to be ruled upon in the decision on remand, and to submit additional evidence or contentions or to raise questions of law as a result of the Council's remand of the case. This allows the claimant a full and fair opportunity to present his or her case. It is immaterial that the claimant originally waived his or her right to a hearing because the claimant may wish to change his or her decision in light of the Appeals Council's reason for remanding the case.</p> <p>The Administrative Law Judge need not automatically schedule a hearing (except when the Appeals Council orders that a hearing be held), but must inform the claimant, in writing, of the right to a hearing.</p>
INTERPRETATION	:	On remand, the Administrative Law Judge shall offer the claimant the opportunity for a hearing except in a claim for Title II disability insurance benefits when the period at issue expired before the date of the hearing decision (e.g., insured status expired in a disabled worker's claim or the claimant reached age 22 in a child's insurance benefits claim). In those instances, the Administrative Law Judge need not offer the claimant the opportunity for a hearing unless the

		Administrative Law Judge finds that the facts warrant it.
		In those cases when the Appeals Council concludes that a hearing is <u>required</u> to adequately document the evidentiary record or to satisfy the requirements of due process, the Appeals Council will order that a hearing be held. When the Appeals Council does not order a hearing, the Administrative Law Judge should still offer the claimant an opportunity to appear at a hearing to present oral testimony or arguments and to submit additional evidence in response to the remand order, even when the claimant initially waived an oral hearing. As in other procedural matters, the Administrative Law Judge must document the fact that the claimant was extended the opportunity for a hearing on remand.
APPLICATION	:	The Appeals Council will apply this interpretation in all cases that come before it involving the same issue.
EFFECTIVE DATE	:	October 4, 1989
CROSS-REFERENCE	:	20 CFR §§ 404.977 and 416.1477; HALLEX §1-3-7-40 E.