

## Administrative Procedures for Social Security Actions Under 42 U.S.C. § 405(g).

### Overview

The Federal Rules of Civil Procedure Supplemental Rules for Social Security govern actions under 42 U.S.C. § 405(g) for review on the record of a final decision of the Commissioner of Social Security that present only individual claims. The Supplemental Rules for Social Security establish procedures for commencing the action, serving the complaint, filing the answer, and presenting the action for decision; and establish deadlines for filing the answer and the parties' briefs. Below are additional local procedures that must be followed related to *in forma pauperis* motions and the filing of briefs.

### Procedures

#### Motions for Leave to Proceed *in forma pauperis*.

A plaintiff who seeks leave to proceed without prepayment of the filing fee should use the form ProSe-14, available from the Court Clerk's office or on the Court's website.

#### Length, Format, and Content of Briefs in Social Security Actions Under 42 U.S.C. § 405(g).

**Length and Format of Briefs.** Absent leave of Court, opening and response briefs shall be limited to fifteen pages, exclusive of signature block and certificate of service. Plaintiff's reply brief shall be limited to three pages. If a party requires additional pages, he or she must file a motion for leave to exceed page limitation. The motion should briefly explain why the additional pages are necessary.

**Plaintiff's Opening Brief.** Contents. The plaintiff's opening brief shall include the following four sections:

Section I - Statement of Facts: the plaintiff should concisely summarize the facts that demonstrate the Commissioner erred in finding the plaintiff was not disabled. The plaintiff should include specific references to the record.

Section II - Identification of Errors on Appeal: The plaintiff must list and number each specific error the Commissioner or ALJ made in concluding that the plaintiff was not disabled. This section should not contain a discussion of each error.

Section III - Discussion of Errors on Appeal: The plaintiff should include a separate subsection for each error listed in Section II. The plaintiff must discuss each error listed in Section II in detail and explain why that error requires a reversal or a remand of the Commissioner's decision. The plaintiff should provide specific references to the record for each error. Citations to cases, statutes, regulations (C.F.R.), and applicable Social Security Rulings (SSR) are appropriate. Particular emphasis should be placed on decisions from the United States Supreme Court and Court of Appeals for the Tenth Circuit. In addition,

emphasis should be placed on recent cases of which the Court may not yet be aware, and on those cases that are directly or closely on point as to a specifically alleged error.

Section IV - Relief Sought: In one sentence, the plaintiff should state the relief requested.

Attachments. Attachments to the brief are discouraged. The plaintiff should not attach materials that are included in the record or in published cases. If the plaintiff relies on an unpublished case, the plaintiff may attach a copy of the unpublished case.

**Defendant's Response Brief.** The defendant's response brief shall respond to the specific errors listed in Section II of the opening brief and shall include a section containing a "Discussion of Errors on Appeal," in compliance with Section III above. In addition, if appropriate, the defendant may raise any other issues that would support its position that the decision of the Commissioner should be affirmed.

**Plaintiff's Reply Brief.** If the defendant raises new issues that were not addressed in the plaintiff's opening brief, the plaintiff may file a three-page reply brief that addresses only the new issues raised by Defendant.

## Revision History

Date	Description