



# Updates from the Office of Hearings Operations

# AGENDA

- Critical Case Updates
- Scheduling
- Manner of Appearance Updates
- Fee Agreement Cap Increase
- Marasco Updates
- Central Print Updates



# CRITICAL CASE UPDATES

## Homeless Category Added And Dire Need Category Revised

- Homeless critical case category established at the hearings and AC levels.
- HALLEX updated on August 6 to provide specific category for cases when a claimant is homeless rather than including within dire need category.
- Homeless category uses the same criteria used by field offices and DDS to define an individual experiencing homelessness.
- Ensure consistent critical case identification at all levels in the administrative process.
- HO staff will designate a case as critical if a claimant alleges they are experiencing homelessness and/or if a claimant alleges they are experiencing a Dire Need situation.
- See HALLEX I-2-1-40 and I-3-1-5 for critical case categories and criteria.

# SCHEDULING

## Website

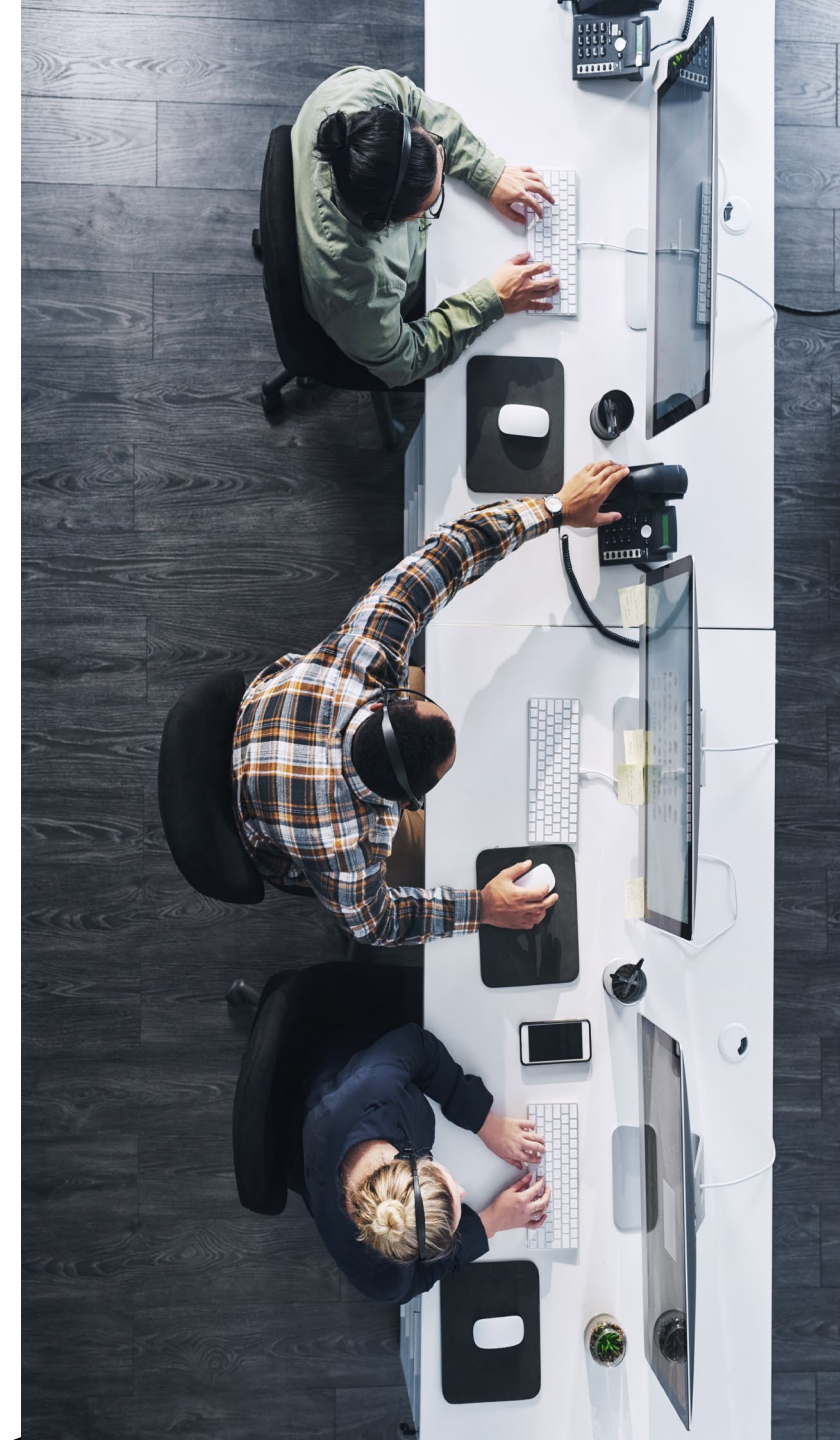
[https://www.ssa.gov/appeals/scheduling\\_process.html](https://www.ssa.gov/appeals/scheduling_process.html)

## Phone

1-866-964-1714

## Email

[OHO.NSD.NSS.ELU.General.Inquiries@ssa.gov](mailto:OHO.NSD.NSS.ELU.General.Inquiries@ssa.gov)



# MANNER OF APPEARANCE UPDATES

During the Coronavirus Disease 2019 (COVID-19) national public health emergency, we observed that claimants and representatives embraced the flexibilities offered by telephone and online video.

- The final rule was published in the Federal Register on August 26, 2024.
- The final rule will be effective on November 23, 2024.
- This effective date will allow us sufficient time to implement the various notice, sub-regulatory policy, and business process changes.

We may schedule claimants to appear at their hearings in one of four ways: by audio, by agency video, by online video, or in person. These four manners will be standard manners of appearance in our hearing process.

# MANNER OF APPEARANCE CHANGES

<b>Current Process</b>		<b>New Rule</b>
<b>Names</b>	OVH VTC Telephone	OVH Agency Video Audio
<b>Agree</b>	Telephone and OVH (Mandate telephone in extraordinary circumstances)	OVH
<b>Object</b>	VTC	Audio and Agency Video (Mandate audio in extraordinary circumstances)

# MANNER OF APPEARANCE FORMS

## New Forms:

### **Objection Form:**

- Claimants may object to appearing by:
  - Audio (formerly telephone)
  - Agency Video (formerly VTC)

### **Agreement Form:**

- Claimants may agree to appearing by:
  - Online video



# AUDIO APPEARANCE



- An audio appearance, formerly a “telephone” appearance, is defined as an appearance by telephone or similar audio-based technology in a private location the claimant chooses.
- The claimant has the right to object to appearing at a hearing by audio, agency video, or both, within 30 days of receiving the Notice of Ways to Attend a Hearing.
- We may extend the 30-day deadline if the claimant shows they had good cause for missing the deadline.
- Notwithstanding a claimant’s objection to appearing by audio, we may mandate an appearance by audio in limited circumstances, including extraordinary circumstances and incarceration.



# AGENCY VIDEO APPEARANCE



- An agency video appearance, formerly a “video teleconferencing (VTC)” appearance, is defined as an appearance by video, with audio functionality, using our equipment in one of our offices.
- The claimant has the right to object to appearing at a hearing by audio, agency video, or both, within 30 days of receiving the Notice of Ways to Attend a Hearing.
- We may extend the 30-day deadline if the claimant shows they had good cause for missing the deadline.



# ONLINE VIDEO APPEARANCE

- An online video appearance is defined as an appearance by video, with audio functionality, using a personal electronic device in a private location the claimant chooses.
- We may schedule claimants to appear by online video if they agree to such an appearance within 30 days of receiving our notice explaining the ways they may attend a hearing. We may extend the 30-day deadline if the claimant shows they had good cause for missing the deadline.
  - Even without a showing of good cause, we may consider a request to change the manner of appearance to online video after the 30-day time period if it would be efficient to conduct the hearing in that manner and the circumstances in the case provide a good reason to schedule the claimant's appearance by online video.
- Claimants may withdraw their agreement to appear by online video at any time before the start of the hearing.

# FEE CAP INCREASE

- On May 10, 2024, we published a Federal Register notice announcing that we are increasing the maximum dollar amount limit for fee agreements approved under the Social Security Act to \$9,200.
- Effective November 30, 2024, an adjudicator may approve fee agreements up to \$9,200, provided that the fee agreement otherwise meets the statutory conditions of the agreement process.
- Starting in January 2026, along with our announcements of other cost of living adjustments (COLA), we will annually address the maximum dollar amount for fee agreements and provide a rationale for either increasing or not increasing the maximum dollar amount based upon the annual COLA for the prior year.

# Rules for Claimant Representation and Provisions for Direct Payment of Entities - Marasco

- We revised our regulations consistent with the decision of the United States Court of Appeals for the First Circuit in *Marasco & Nesselbush, LLP v. Collins*, 6 F.4th 150 (1st Cir. 2021).
- Marasco will be implemented in two phases:
- Phase 1: On September 30, 2024, we will begin our new registration requirements for appointed representatives. All representatives must register with SSA to be appointed to new claims starting September 30th.
- Phase 2: On December 9, 2024, we will implement the remainder of the changes, including allowing assignment of direct payment of fees to entities and requiring the SSA-1696 for all new appointments.
- We encourage all representatives to review the final rule, available at <https://www.govinfo.gov/content/pkg/FR-2024-08-21/pdf/2024-18497.pdf>, as well as the Agency's webpage for representatives, available at <https://mwww.ba.ssa.gov/representation/2024NewRule.htm>, for more details.

# Marasco Phase 1 – Representative Registration

- Starting September 30, 2024, anyone who has not previously registered with us and who wants to be appointed as a representative must register with us using the Form SSA-1699 before we will recognize a new appointment request.
- We determine the date the appointment was established by the date that the claimant signed it. If the claimant did not date the appointment, we use the date the agency received the appointment.
- The registration requirement applies to all appointed representatives, including family and friends of the claimant and representatives who do not plan on charging or collecting a fee.

# Marasco Phase 2 – Required use of Form SSA-1696 and Provisions for Direct Payment of Entities

- Starting December 9, 2024:
- Representatives must use the Form SSA-1696 for new or updated appointments.
- We will directly pay entities the fees we authorize to their affiliated representatives when a representative assigns direct payment of their fee to that entity.
- All entities that want to receive direct payment will need to register or update their registration with necessary payment and Point of Contact (POC) information. This information will be collected on a revised SSA-1694 (Entity Registration and Taxpayer Information).
- We are giving entities advance time between September 30, 2024, and December 9, 2024, to complete or update their registration prior to the implementation of the remaining changes. Because an entity's POC must be a registered representative, anyone who intends to be an entity's POC may begin their individual registration immediately using the Form SSA-1699.

# CENTRAL PRINT UPDATES

- OHO stopped the practice of post-dating centrally printed notices, decisions, and other correspondence as of May 20, 2024.
- Centrally printed documents now include the date the document was electronically sent to the printing facility.
- There is no disadvantage to claimant's and representatives with the change in this practice.
- Please refer to Central Print and Manual Mail - Response Timeliness - Representative Information (<https://mwww.ba.ssa.gov/appeals/pubs/CentralPrintAndManualMail-ResponseTimeliness-RepresentativeInformation.pdf>) and HALLEX 1-2-0-80 for more details.

**Questions**

