|  |
| --- |
| **SOCIAL SECURITY ADMINISTRATION** |

Social Security Administration

Office of Hearings Operations

Special Review Cadre

5107 Leesburg Pike

Falls Church, VA 22041

Tel: (844) 698-1703 (3 digit #)

Fax: (833) 516-0392

Date:

Refer To:

\*\*[SSN]\*\*

\*\*[First Name Last Name

Address

City, ST Zip Code]\*\*

DRAFT

**NOTICE OF HEARING**

**Please bring this notice with you, and arrive at least 30 minutes prior to your hearing.**

You may also review your file on the day of your hearing if you come in at least 60 minutes before the time set for your hearing. Please call us in advance if you will need more than 30 minutes to review your file.

I have scheduled your hearing for

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Day:**  |  | **Date:**  |  | **Time:**  |

|  |  |  |  |
| --- | --- | --- | --- |
| **Room:**  |  | **Address:**  |  |

**It Is Important That You Attend Your Hearing**

**[HUNTINGTON I]** The Office of the Inspector General (OIG) notified the Social Security Administration (SSA), as required by section 1129(l) of the Social Security Act, that there was reason to believe fraud was involved in certain cases where Eric C. Conn or his law firm was the appointed representative. Your case was identified by OIG in its section 1129(l) referral.

**[HUNTINGTON II – WVR2]** The Office of the Inspector General notified the Social Security Administration (SSA), as required by section 1129(l) of the Social Security Act, that there was reason to believe fraud was involved in certain cases involving evidence from Bradley Adkins, Ph.D., Srinivas Ammisetty, M.D., Frederic Huffnagle, M.D., or David P. Herr, D.O. Your case was identified by OIG in its section 1129(l) referral.

DRAFT

Under sections 205(u) and 1631(e)(7) of the Social Security Act (Act), SSA must redetermine an individual’s disability case when there is reason to believe fraud or similar fault was involved in that individual’s application for benefits. [Because your case was identified by OIG in its section 1129(l) referral, by law, we redetermined your case and issued a new decision.]

In *Hicks v. Commissioner of Social Security*, 909 F.3d 786 (6th Cir. 2018), the Court of Appeals for the Sixth Circuit held that before disregarding evidence during a redetermination, the agency must provide a factual basis for the reason to believe fraud was involved in providing evidence, and individuals must have a chance to rebut the agency’s assertions through a neutral decisionmaker. The agency acquiesced to the Sixth Circuit ruling on February 4, 2020 in Acquiescence Ruling 19-1(6)/, and the Federal District Court has remanded your case back to the Agency to comply with *Hicks*.

Accordingly, your claim must be redetermined [again] in accordance with the U.S. District Court’s order in your case and Acquiescence Ruling 19-1(6)/Acquiescence Ruling 19-1(6).

The Appeals Council sent your case back to me for a new hearing and a new decision. I have set aside this time for you to tell me about your case.

You **must** bring valid picture identification (ID) to your hearing. Examples of acceptable picture ID include a:

* **Current and valid U.S. State driver’s license;**
* **U.S. State-issued identity card;**
* **Current U.S. passport; or**
* **U.S. military ID/dependent military ID.**

If you do not have any of these forms of ID, please bring another form of picture ID with you. Proper ID is also required for your representative (if you have one), a friend, or a member of your family who comes with you to the hearing. Without proper ID, you may not be able to enter the building where your hearing is being held. This could stop or delay your hearing.

[In accordance with the U.S District Court’s order in your case, you should have received a separate notice about your reinstatement of benefits and the amount of money we may owe you.]

After redetermining your case, I may find that there is insufficient evidence supporting your entitlement to and eligibility for benefits on or before [Date of the decision], the date we initially allowed the claim. My decision may result in the loss of your benefits and you may be determined to have received an overpayment. If your benefits are terminated, and an overpayment is assessed, you may request that we waive that overpayment, and we will consider such a request under our rules.

DRAFT

**Complete the Enclosed Form**

Please complete and return the enclosed acknowledgement form at the earliest possible opportunity. Please use the enclosed envelope to return the form to us. We assume you received this notice 5 days after the date on it unless you show us that you did not get it within the 5-day period.

**\*\*[If a VTC hearing]\*\* I Plan To Use Video Teleconferencing (VTC) At Your Hearing**

You are scheduled to appear at your hearing by VTC. You will be at the location shown above during the hearing, and I will be at another location. A large, color monitor will allow us to see, hear, and speak to each other. I will also be able to see, hear, and speak to anyone who comes with you to the hearing. This may include your representative (if you have one), a friend, or a member of your family. A person will be at your location to operate the equipment and provide any other help you may need.

**If You Cannot Attend Your Scheduled Hearing**

If you are not able to attend your hearing at the time and place I have set, please call this office immediately.

If you wish to change the time or place of your hearing, you must ask for a change. Your request must be in writing to tell me why you need the change and the time and place you would like the hearing held.

You must ask for this change before the earlier of the two dates described below. The first date is 30 days after you receive this notice. The second date is 5 days before the date of your hearing. We assume you received this notice 5 days after the date on it unless you show us that you did not get it within the 5-day period. If you delay in asking for a change, I will also decide whether you have a good reason for the delay. I will rule on your request based on our standards for deciding if there is a good reason for changing the time and place of your hearing.

I will decide whether you have a good reason for requesting the change. If I find you have a good reason for your request, I will set a new time and place for your hearing. I will also send another notice giving you the new time and place of your hearing at least 75 days before the new date of the hearing.

DRAFT

**If You Want Help With Your Appeal**

It is important to understand that while Mr. Conn or one of his associates was your appointed representative at the time of your initial allowance, his representation, or the representation of one of his associates, ended after we initially allowed your claim. This means that if you would like the assistance of a representative during the redetermination proceedings, you must find a new representative to assist you. We will work with this person just as we would work with you. If you decide to have a representative, you should find one quickly so that person can start preparing your case.

Many representatives charge a fee. Others may represent you for free. [In these redetermination proceedings, there will be no past due benefits.] Usually, your representative may not charge a fee unless we approve it. Any appointed or previously appointed representative can submit a fee petition for the services he or she provided, and I will evaluate the request using the applicable procedures. If you get a representative, you or that person must notify us in writing.

**Submitting More Evidence and Reviewing Your File**

We will consider more evidence if it is new and material; and it is about “disability” starting on or before [*Decision Date*], the date of the Administrative Law Judge’s decision*.* We will also consider evidence you obtained from the Receivers that was previously associated with your file in the office of your former representative Eric C. Conn.

You should have already received a copy of your claims file on a compact disc. If you have not received a copy of your claims file, please call this office and we will send you a replacement copy. You may also review your file on the day of your hearing if you come in at least 60 minutes before the time set for your hearing. Please call us in advance if you will need more than 30 minutes to review your file.

You are required to inform us about or submit all evidence known to you that relates whether or not you are blind or disabled.  **If you are aware of or have more evidence, such as records, reports, or evaluations,** **you must inform me about it or give it to me no later than 5 business days before the date of your hearing. If you do not comply with this requirement, I may decline to consider the evidence unless the late submission falls within a limited exception.**

If you missed the deadline to inform us about or submit evidence, I will accept the evidence if I have not yet issued a decision and you did not inform us about or submit the evidence before the deadline because:

DRAFT

1. Our action misled you;

2. You had a physical, mental, educational, or linguistic limitation(s) that prevented you from informing us about or submitting the evidence earlier, or;

3. Some other unusual, unexpected, or unavoidable circumstance beyond your control prevented you from informing us about or submitting the evidence earlier.

If you want to see your file before the date of your hearing, please call this office and make arrangements. If your file is electronic, you may ask for a copy on a compact disc.

**Issues I Will Consider**

**[HUNTINGTON I]** As required by section 1129(l) of the Act, OIG notified SSA that there was reason to believe fraud was involved in certain cases involving Eric C. Conn, or an individual associated with his law firm, and Dr. Adkins, Dr. Ammisetty, Dr. Huffnagle, or Dr. Herr.

**[HUNTINGTON II – WVR2]** As required by section 1129(l) of the Act, OIG notified SSA that there was reason to believe fraud was involved in certain cases involving medical source statements from PROVIDER submitted to SSA on behalf of claimants represented by Eric C. Conn or an individual associated with his law firm.

**[IF ALJ PREVIOUSLY ISSUED REDETERMINATION DECISION]** In your original redetermination hearing, certain evidence was disregarded because OIG told us it had reason to believe it involved fraud.

During this [supplemental] hearing:

* I will determine whether there is reason to believe fraud or similar fault was involved in the providing of evidence in support of your application for disability benefits;
* I will consider whether evidence submitted is new, material, and related to the period at issue.

Under the Act, I will find you are entitled to and eligible for benefits on or before [Date of the decision], the date SSA initially allowed the claim if you had a physical or mental condition(s) that:

* Kept you from doing any substantial gainful work; **and**
* Lasted 12 straight months, could have been expected to last 12 straight months, or could have been expected to result in death.

DRAFT

I will follow a step-by-step process to decide whether you are entitled to and eligible for benefits on or before [Date of the decision], the date SSA initially allowed the claim. I will stop the process at the first step I can make a decision. The steps in this process look at:

* Any work you did after your condition(s) began;
* The severity of your condition(s);
* Whether you could have done the kind of work you did in the past; and
* Whether you could have done any other kind of work considering your age, education, and work experience.

I will also consider whether you had enough earnings under Social Security to be insured for a Period of Disability and Disability Insurance Benefits. If you did, I must decide whether you became disabled while you were insured.

Our regulations explain the rules for deciding whether you were entitled to and eligible for benefits and, if so, when you became entitled to and eligible for benefits. These rules are in the Code of Federal Regulations, Title 20, Chapter III, Part 404, Subpart B, Subpart P and Part 416, Subpart I.

\*\*[NOTE: Under limited circumstances, the ALJ may add language to address additional evidence involving fraud or similar fault.]\*\*

If I find that you were entitled to and eligible for benefits, I will also consider whether your entitlement for and eligibility to continued through \*\*[DATE OF PRIOR ALJ DECISION]\*\* or whether your condition(s) improved on or before [Date of the decision], the date SSA initially allowed the claim.

A vocational expert [and an OIG witness] will appear at the hearing by telephone. You will be able to communicate with these individual(s).

**If You Object to the Issues**

If you object to the issues or remarks listed above, you must tell me in writing why you object. You must tell me as soon as possible before the hearing, but not later than 5 business days before the date of the hearing. You must state the reason(s) for your objection.

**Your Right To Request a Subpoena**

I may issue a subpoena that requires a person to submit documents or testify at your hearing. I will do this if the person has evidence or information that you reasonably need to present your case fully.

DRAFT

If you want me to issue a subpoena, you must write to me as soon as possible. I must receive your request no later than 10 days before your hearing. In your request, please tell me:

* What documents you need and/or who the witnesses are;
* The location of the documents or witnesses;
* The important facts you expect the document or witness to prove; and
* Why you cannot prove these facts without a subpoena.

**What Happens At the Hearing?**

* I will ask you and any other witnesses to take an oath or to affirm that the testimony is true.
* You will have a chance to testify and tell me about your case.
* You and your representative (if you have one) may submit documents, present and question witnesses, state your case, and give written statements about the facts and law. You must provide your written statements no later than 5 business days before the date of your hearing.
* I will ask you and any other witnesses questions that will help me make a decision in your case.
* We will make an audio recording of the hearing.

**Travel Costs**

We can pay certain travel costs when you, your representative, or needed witnesses must travel more than 75 miles to the hearing. A sheet is enclosed to tell you about our rules for paying travel costs. Please call this office if you want more information.

**The Decision**

In compliance with the above, I will take any further action needed to complete the administrative record and issue a new decision on the issue of disability for the relevant period.

After the hearing, I will issue a written decision and mail it to you. The decision will explain my findings of fact and conclusions of law. I will base my decision on the evidence of record related to the period at issue, including the testimony at your hearing, but I will disregard any evidence that I find involved fraud or similar fault in its provision to the agency.

DRAFT

**If You Have Any Questions**

If you have any questions, please call, \*\*[SRC PHONE NUMBER)]\*\*, or write this office. For your convenience, our address is on the first page of this notice.

Sincerely,

ALJ's Name

Administrative Law Judge

Enclosures:

SSA Publication No. 05-10075 (Your Right To Representation)

Form HA-504 (Acknowledgement of Receipt of Notice of Hearing)

Form HA-L84 (Vocational Expert Letter)

OIG Witness Letter

OIG Witness Name

OIG Witness Address

|  |
| --- |
| **SOCIAL SECURITY ADMINISTRATION** |

Social Security Administration

Office of Hearings Operations

Special Review Cadre

5107 Leesburg Pike

Falls Church, VA 22041

Tel: (844) 698-1703 (3 digit #)

Fax: (833) 516-0392

Date:



Dear OIG Witness Name:

DRAFT

The claimant named below has an application pending for disability benefits. A hearing for the claimant is scheduled, date and time shown below.

|  |  |  |
| --- | --- | --- |
| **Name of Claimant:**  |  | **SSN:**  |
| **Date and Time:**  |  |
| You are requested to appear and give testimony as a witness for the Office of the Inspector General (OIG) in the above hearing. We will call you by phone for the hearing. |
| **Address:** |  |

Your testimony will be limited to OIG’s investigative fact-finding that, based on the totality of the circumstances, there was reason to believe that fraud was involved in the application or in the providing of evidence in the above-named individual’s case. Questions may also be asked of you by the claimant (or representative, if any).

**IMPORTANT INFORMATION**

NOTE: IT IS REQUIRED THAT YOU DISQUALIFY YOURSELF IF YOU HAVE HAD ANY PRIOR KNOWLEDGE OF THIS CLAIMANT OR EXPERIENCE IN THIS CASE OTHER THAN AS AN AGENT OF THE SOCIAL SECURITY ADMINISTRATION’S OFFICE OF THE INSPECTOR GENERAL.

Sincerely yours,

ALJ's Name

Administrative Law Judge