

## **HALLEX Instructions for Reconstructing Records - Excerpt**

HALLEX contains a detailed section on how to locate the records for paper cases, which in relevant part states:

“...National Pending Hearing Requests Electronic Folder vs. Paper Cases | Public Data Files.

### **Ensure the File is Complete**

For paper cases, the Hearing Office Director (HOD), Group Supervisor (GS), or other HO management official will determine that all exhibits are in the original file and are marked. When the recording of the hearing is located, the HOD, GS, or other HO management official must ensure the recording is completely audible.

### **Receipt of OCALJ's Response and Forwarding the Request to the AC**

On receipt of an expedited request for clarification, OCALJ will evaluate the request to determine if it is appropriate for the expedited clarification process and will issue a memorandum via email to the HO, signed by the DFP branch chief, agreeing or disagreeing with the request.

If OCALJ agrees with the request, the HO will email a copy of the memorandum to the AC at ^DCARO OAO, with subject line “Expedited Clarification – [claimant's last name].” The sender must not include the claimant's Social Security number (SSN) in the subject line.

In paper cases, the email should clearly state that the case is paper. The HO will hold the paper file in the HO. If the paper file is needed, the Office of Appellate Operations will provide the HO with instructions on where to send the file.

### **Locating the Claim(s) Files**

Office of Appellate Operations (OAO) staff will request a paper claim(s) file upon receipt of a request for review where the official claim(s) file is paper. OAO staff will also obtain a paper claim(s) file when it is needed to respond to a request for copies of material (see Hearings, Appeals and Litigation Law (HALLEX) manual I-3-1-21) or a request for

an extension of time to file a civil action (see HALLEX I-3-9-92). Further, OAO staff will request a prior paper claim(s) file when it is needed to fully evaluate the issues before the Appeals Council (AC) (see HALLEX I-3-2-22).

#### Follow-Up Procedures

If OAO has not received the file after 14 days, OAO staff will send a follow-up email and diary the case for an additional 14 days. For critical cases, if OAO has not received the file after 10 days, OAO staff will make a follow-up call and diary the case for an additional 10 days. If OAO has not received the file after the additional 14 days (or 10 days for critical cases), OAO staff will notify the branch chief (usually via email) that the claim(s) file was not received. OAO staff will continue to search for the claim(s) file by completing the checklist in HALLEX I-3-1-26. The branch chief will ensure that all relevant follow-ups are completed and annotated on the checklist.

If the branch is unable to obtain the claim(s) file after taking all necessary actions, the branch chief will certify that the claim(s) file is lost by completing and signing the checklist, providing the completed checklist to the AC, and adding a remark in ARPS.

The AC must remand a case if the claim(s) file cannot be located, but adjudicators will carefully evaluate whether appropriate measures were taken to obtain a claim(s) file before doing so. Generally, the AC will not remand a case if the checklist is missing or incomplete. Remanding a claim without due diligence in attempting to obtain the claim(s) file causes unnecessary delay for the claimant and an unnecessary workload for OAO in processing second actions and requests for clarification under HALLEX I-2-1-85 and I-3-9-95....”