

Rule 16.3.1 Review of Decisions by the Commissioner of Social Security

Pursuant to this Court's authority to issue scheduling orders controlling Administrative Track cases, as provided in Local Rule 16.2(a)(2)(D), and to issue orders governing the powers and duties of Magistrate Judges, as provided in Local Rule 72.1, the following rules should govern the briefing and disposition of reviews of decisions by the Commissioner of Social Security brought under 42 U.S.C. § 405(g).

(a) Form of Review. A civil action brought to review a decision of the Commissioner of Social Security, pursuant to 42 U.S.C. § 405(g), shall be adjudicated as an appeal pursuant to this rule.

(b) Summons and Complaint. The plaintiff shall cause the summons and complaint to be served upon the defendant in the manner specified by Fed.R.Civ.P.4(i), within twenty-one (21) days of the date of filing the complaint with the Clerk of Court. Special disclosure requirements set forth in Local Rule 9.1 must also be followed when applicable.

(c) Answer and Transcript. The defendant shall serve an answer on plaintiff, and file the answer, together with a certified copy of the transcript of the administrative record, within sixty (60) days of service of the complaint.

(d) Plaintiff's Brief. The plaintiff shall file a brief, and serve it upon defendant within thirty (30) days of service of defendant's answer

(e) Defendant's Brief. Within thirty (30) days after plaintiff's brief is filed, defendant shall file a brief which responds specifically to each issue raised by plaintiff, and shall serve it upon the plaintiff.

(f) Reply Brief. The plaintiff may file a brief in reply to the brief of defendant, and serve it upon defendant within fourteen (14) days of the filing of defendant's brief.

(g) Length of Briefs. The brief for the plaintiff shall not exceed twenty-five (25) pages. The brief for the defendant shall not exceed twenty-five (25) pages. The reply brief shall not exceed ten (10) pages.

(h) Report and Recommendations.

(1) In any case assigned to a Magistrate Judge pursuant to Local Rule 72.2(b)(1), the Magistrate Judge should issue a Report and Recommendation within two hundred and eighty-five (285) days of the filing of the answer and transcript.

(2) The District Judge assigned to the case should adopt, modify, or overrule the Report and Recommendation of the Magistrate Judge within one hundred and five (105) days of its issuance.

(3) Whenever possible, a quicker resolution is encouraged in order to provide faster relief to the parties and to avoid rendering the case reportable under the Guide to Judiciary Policy Vol. 18, Statistics, Ch. 5, § 540.50.

(i) Magistrate Consent Cases.

(1) In any case where the parties have consented to have a Magistrate Judge decide the case, the Magistrate should issue an opinion deciding the case within two hundred and eighty-five (285) days of the filing of the answer and transcript.

Effective 1/1/2013.