

13. Prehearing submissions and requirements

a. **General requirements.**

Unless an ALJ directs otherwise, a prehearing exchange includes:

- i. lists of proposed exhibits and proposed witnesses (note that any party offering expert testimony must include in the exchange a statement of the expert's qualification, a summary of the expert's opinion, and the basis for the opinion);
- ii. copies of proposed documentary exhibits labeled in accordance with CDRP § 14;
- iii. written statements (in the form of sworn affidavits or statements made under penalty of perjury) of all proposed witnesses, offered in lieu of direct testimony;
- iv. any prior statements of proposed witnesses other than those offered in subparagraph (iii) that relate to issues which might be raised at hearing; and
- v. a prehearing brief that provides a party's written argument about all matters of law and fact at issue in the case.

b. **Case-specific requirements.**

The ALJ may order prehearing submissions in addition to those stated in paragraph (a) or may not require that all of them be submitted prior to hearing. Parties should refer to the ALJ's Acknowledgment and Prehearing Order or other scheduling order to determine the prehearing submission requirements for a specific case. In a complex case, the ALJ may order two exchanges of proposed exhibits and lists of exhibits and witnesses.

c. **Entire submission must be filed at one time.**

A party must file all of its prehearing submissions at one time even if it files its submissions prior to the deadline that the ALJ has established. A party may not file its submissions piecemeal or supplement its earlier submission unless the party requests, in writing, an opportunity to supplement its earlier submission and the ALJ grants the party leave to do so.

d. **Untimely submissions are prohibited.**

A party may not call a witness at an oral hearing who was not listed on that party's witness list or offer an exhibit not listed or timely furnished to the opposing party. If the opposing party objects, the offering party must persuade the ALJ why the testimony should be allowed or the exhibit admitted, inasmuch as the party did not comply with prehearing requirements for providing the ALJ and the opposing party with the name of the witness or a copy of the proposed exhibits.

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