2022 Updates

for

SOCIAL SECURITY LAW AND PRACTICE

A HANDBOOK FOR A LIVE-CLIENT CLINICAL COURSE

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SOCIAL SECURITY LAW, POLICY, AND PRACTICE
A HANDBOOK FOR A LIVE-CLIENT CLINICAL COURSE

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INTRODUCTION

Despite the fact that this handbook was published ten years ago, it remains current due, for the most part, to the fact that it was written expressly to cover only a basic overview of Social Security law and practice. As I explained in the preface to the handbook when it was first published, the handbook "is not a comprehensive treatment of Social Security law and practice, or even of the more limited topic of Social Security disability law and practice. It is instead a relatively brief, direct explanation of the basic material on Social Security law and practice that a student will need to get off on the right track in a clinical course." Accordingly, this update focuses specifically on those aspects of Social Security law and practice that are covered in the original handbook; that is, the entries update the handbook where law or practice has changed to the extent that the referenced material in the original is confusing or no longer accurate.

This same topic is covered comprehensively in a recently revised and updated companion course book, which can be used in a classroom course or a more intensive Social Security Clinic: FRANK S. BLOCH & JON C. DUBIN, CASES AND MATERIAL ON SOCIAL SECURITY LAW, POLICY, AND PRACTICE (West Academic 2016). A 2022 update for the course book is also available from West.

Immediately below are a few updates that apply generally to the manual as a whole. The remainder of the updates are set out in the order in which they update the original text, identified by chapter, section, and page number(s).

UPDATES

General

Certain citations to the Social Security Act, federal regulations, and SSA Rulings include reference to a set of appendices ([APP-STAT], [APP-REGS], and [APP-Rulings]), which are linked to those appendices in the electronic version of the handbook. The citations themselves and any quoted portions are correct; however, the appendices have not been updated and therefore may not include the current version of the Act or regulations. Instead, readers who wish to view the primary

sources should search the relevant provisions online using appropriate search engines or online databases.

Links to specific websites (for example to the OASDI online application form at p. 24) may be out-of-date even though the material referenced is still available online. Rather than revise those links, which themselves may become obsolete, readers are advised to find the material using easily available search engines.

Chapter 1, Section A.1 (Special Insured Status for Disability-Based Benefits) p. 3, first full paragraph:

Social Security Ruling SSR 18-1p (2018) provides that ALJs may, but are not required to, call a medical expert on the question of onset date: "The decision to call on the services of an ME is always at the ALJ's discretion. Neither the claimant nor his or her representative can require an ALJ to call on the services of an ME to assist in inferring the date that the claimant first met the statutory definition of disability."

Chapter 1, Section B.1 (Income Requirements) at p. 3, second paragraph:

The amounts for 2022 are $841 for an individual and $1,261 for an eligible couple.

Chapter 1, Section D.1.A (Spouses and Widowers Benefits) at p. 13:

Benefits are now available equally to spouses in same-sex marriages.

Chapter 1, Section D.1.C (Proof of Marriage) at pp. 13-14:

Following the Supreme Court's decisions in Windsor v. U.S., 133 S. Ct. 2675 (2013), in which the Court ruled the Defense of Marriage Act unconstitutional, the Social Security Administration began treating same-sex marriages as other marriages if the claimant had a ceremonial marriage in a state that permitted same-sex marriages, the marriage took place on or after the date when the state permitted same-sex marriages, and the claimant lived in a state that recognized same-sex marriages at the time of the application or while the claim is pending final determination. Following the Court's decision in Obergefell v. Hodges, 135 S. Ct 2584 (2015), declaring that the Due Process and Equal Protection Clauses of the Fourteenth Amendment guarantee same-sex couples the right to marry and that states must recognize lawful same-sex marriages performed in other states, SSA

began recognizing same-sex marriages in every state. Emergency Message EM 14049 REV 3 (July 6, 2015).

The Social Security Administration has also issued a Ruling, in light of *Windsor* and *Obergefell*, explaining how its reopening rules should be applied when it applied a federal or state law in making a decision and the Supreme Court determined later that the law is unconstitutional. SSR 17-1p (2017); *see also* 82 Fed. Reg. 12270, 12271 (March 1, 2017). The Ruling clarifies the rules governing reopening based on a "change of legal interpretation or administrative ruling upon which the determination or decision was made" under 20 CFR §§ 404.989(b) and 416.1489(b). Ordinarily the rules effectively prevent reopening when a policy or legal precedent that SSA had applied in adjudicating cases is changed as a result of subsequent court decisions, so long as the law or policy was correct and reasonable when made. SSR 17-1p distinguishes the situation where SSA made a determination or decision by applying a federal or state law that the Supreme Court subsequently determined to be unconstitutional. Then "the application of that law would not have been correct and reasonable when made."

In 2021, the Department of Justice withdrew appeals in two nationwide class action challenges where district courts had ruled unconstitutional categorical denial of survivors' insurance benefits to surviving partners of same sex couples who could not get married the nine-month duration-of-marriage requirement due to state law prohibitions. *See* SSA Notice of Class Action Order: Thorton v. Commissioner of Social Security (October 15, 2021); SSA Notice of Class Action Order: Ely v. Saul, (October 15, 2021).

Chapter 2, Section B (Application and Initial Decision) at page 24, first paragraph:

One can now apply for SSI online as well, but only if applying for both Disability Insurance Benefits and SSI at the same time. However, the application must be filed online if filed by an attorney who requests direct payment of attorney's fees. SSA announced stricter enforcement of this requirement in 2020, noting that representatives are under an "affirmative duty" to comply and that failure to do so may lead to sanctions under the agency's Code of Conduct. *See* 85 Fed. Reg. 62779 (October 5, 2020).

Chapter 2, Section B (Application and Initial Decision) at page 27, first full paragraph:

Around the same time that the Social Security Administration established its Quick Disability Determination process, it identified a set of medical conditions that

qualify claimants for "compassionate allowances" on the ground that claimants with those conditions "invariably qualify under the Listing of Impairments . . . based on minimal, but sufficient, objective medical evidence." *See* 20 C.F.R. §§ 404.1602, 416.1002. The initial list of 50 conditions included amyotrophic lateral sclerosis (ALS or "Lou Gehrig disease") and various types of cancers; currently there are over 255 conditions listed. An up-to-date list can be found on the SSA website.

Chapter 3, Section A.1 (Standard for Finding a Beneficiary is No Longer Disabled) at page 33, before Section B:

The Social Security Administration clarified its policy as to when benefits should cease when there has been an appeal from a decision to terminate benefits in SSR 13-3p (2013). The Ruling provides that the issue on appeal is whether the beneficiary was disabled not at the time the initial decision to terminate was made, but rather at any time through the date of the final decision on appeal. In other words, administrative law judges and reviewing courts must evaluate all of the evidence available at the time of the hearing, not merely the evidence available as of the alleged cessation date. *See also* 42 U.S.C.A. § 423(f) (when SSA terminates a claimant's benefits, it must examine "all the evidence available in the [claimant's] case file, including new evidence concerning the [claimant's] prior or current condition" and must determine whether "the [claimant] is now able to engage in substantial gainful activity").

Chapter 4, Section A (Sequential Evaluation Process) at page 36, first full paragraph:

The Social Security Administration has added an "expedited" move from Step 3 to Step 5 where SSA does not have sufficient evidence about a claimant's past relevant work to make a finding at Step 4. *See* 20 C.F.R. §§ 404.1520(h), 414.920(h).

Chapter 4, Section B.1 (Step 1: Substantial Gainful Activity) at page 43, third paragraph:

For the year 2022, average monthly earnings of less than $1,350 will ordinarily show that the work was not substantial gainful activity. Blind persons may earn higher amounts before losing their eligibility for disability benefits (the amount in 2022 is $2,260).

Chapter 4, Section B.1 (Step 1: Substantial Gainful Activity) at page 44, first full paragraph:

While the Social Security Administration has maintained that the post-2001 regulations eliminated a similar presumption that a claimant is not engaging is substantial gainful activity when earning fall below the stated amount, some courts have effectively continued to follow the pre-2001 rule by applying a rebuttable presumption in those circumstances. *See, e.g.,* Copeland v. Colvin, 771 F.3d 920, 925-27, 210 Soc. Sec. Rep. Serv. 435 (5th Cir. 2014) (citing unpublished opinions to the same effect in the Third and Tenth Circuits).

Chapter 4, Section C.1 (Applying the Listing at Step 3) at page 50, last paragraph:

Part A includes 14 categories of impairments; Part B includes 15.

Chapter 4, Section C.2 (Medical Equivalence to a Listed Impairment) at p. 51, second full paragraph:

The Social Security Administration now requires that a decision of medical equivalence at the ALJ level (and the Appeals Council level, when the AC makes the decision) include one of three specified types of expert opinion in the record: 1) a prior administrative medical finding from a Medical or Psychological Consultant from the initial or reconsideration adjudication levels supporting the medical equivalence finding, or 2) Medical Expert evidence, which may include testimony or written responses to interrogatories, obtained at the hearings level supporting the medical equivalence finding, or 3) a report from the Appeals Council's medical support staff supporting the medical equivalence finding. SSR 17-2 (2017); *see also* 82 Fed. Reg. 15,263 (March 27, 2017).

Chapter 4, Section F.2 (Step 5 and the Medical-Vocational Guidelines ("Grids")) at p.58, second full paragraph:

Until early 2020, the category of "limited education" or less included a higher subcategory of persons who were "at least literate and able to communicate in English" and the category of "illiterate" included persons unable to communicate in English. Effective April 27, 2020, SSA eliminated the inability to communicate in English as a factor when evaluating disability claims because it "is no longer a useful indicator of an individual's educational attainment or of the vocational impact of an individual's education because of changes in the national workforce." See generally 85 Fed. Reg. 10596 (February 25, 2020). Under the current grids, the

following example applies: if a claimant is limited to sedentary work, is closely approaching advanced age (defined as between the ages of 50 and 54), has a high school education (or more) that does not provide for direct entry into skilled work, and has either no previous work experience or previous work experience limited to unskilled labor, then 20 C.F.R. Part 404 Subpart P Appx 2 (Guidelines) § 201.12 would direct a finding that the claimant is disabled. On the other hand, if that same individual had a high school education (or more) that does provide for direct entry into skilled work, then Rule 201.13 would direct a finding of not disabled.

Chapter 4, Section G.5.A (Remediable Disability) at p 67, add at the end of the subsection:

The Social Security Administration clarified its procedure for determining a failure to follow prescribed treatment in a 2018 Ruling, SSR 18-3p (2018), which rescinded and replaced an earlier Ruling on the same topic (SSR 82-59 (1982)). The new Ruling provides that there must be evidence that the claimant's own medical source prescribed treatment for the "medically determinable impairment(s) upon which the disability finding is based." Therefore, SSA will not require claimants to follow treatment prescribed by a consultative examiner, medical or psychological consultant, medical expert, or by "a medical source during an evaluation conducted solely to determine eligibility to any State or Federal benefit. On the other hand, one cannot refuse surgery just because "success is not guaranteed or [the claimant] knows of someone else for whom the treatment was not successful."

The Ruling also sets out how SSA determine whether an individual has failed to follow prescribed treatment. First, the treatment must, if followed, be expected to restore the person's ability to engage in substantial gainful activity (SGA). If the reason is that the treatment goes against the tenets of the person's religion, she or he "must identify the religion, provide evidence of the individual's membership in or affiliation to his or her religion, and provide evidence that the religion's teachings do not permit the individual to follow the prescribed treatment"; if the person cannot afford the prescribed treatment, he or she "must demonstrate why he or she does not have health insurance that pays for the prescribed treatment or why he or she failed to obtain treatment at [an available] free or subsidized healthcare provider."

Chapter 5, Section A (Administrative Hearing) at p. 69, first paragraph:

Hearing requests may be filed electronically. 20 C.F.R § 422.203(b). However, if an attorney requests direct payment of attorney's fees electronic filing is mandatory. 20 C.F.R. §§ 404.1713, 416.1513; SSR 19-3p (2019). Attorneys registered with SSA's Appointed Representative Services (ARS) may also view documents in their clients'

"electronic folder" (eFolder) as well as download eFolder contents and upload medical evidence and other documents into eFolders.

Chapter 5, Section A (Administrative Hearing) at p. 69, after first paragraph:

Hearings are scheduled, either in person or by teleconference, by SSA's Office of Hearing Operations (OHO). OHO decides whether the claimant will appear in person or by videoconference by taking into consideration the relative efficiency of teleconferencing vs. an in-person appearance, as well as "any facts in [the claimant's] particular case that provide a good reason to schedule [the claimant's] appearance by video teleconferencing or in person." 20 C.F.R. §§ 404.936(c)(1), 416.1436(c)(1); however, claimants can object to appearing by teleconference within 30 days after receipt of notice. 20 C.F.R. §§ 404.936(d), 416.1436(d). SSA also controls whether to schedule its witnesses by videoconference or telephone, including a medical or vocational expert. 20 C.F.R. §§ 404.936(c)(4), 416.1436(c)(4). The criteria for deciding on witness appearance by videoconference or telephone are the same as for a party; however, claimants do not have the right to object to the manner in which SSA witnesses appear.

Chapter 5, Section A (Administrative Hearing) at p. 69, second paragraph:

SSA has split the former Office of Disability Adjudication and Review (ODAR) into the Office of Hearing Operations (OHO) and the Office of Appellate Operations (OAO).

Chapter 5, Section A (Administrative Hearing) at p. 70, first paragraph:

The Social Security Administration issued new regulations, effective in 2017, requiring claimants (and their representatives) to submit or inform SSA about written evidence, written statements, objections to issues, and subpoena requests within 5 business days of a scheduled hearing. 20 C.F.R. §§ 404.935, 416.1435. The new regulations also lengthen the time frame for notifying claimants of a hearing date from at least 60 days to at least 75 days. 20 C.F.R. §§ 404.928, 416.1438. These regulations were followed by a new Social Security Ruling, SSR 17-4p, 82 Fed. Reg, 46339 (October 4, 2017) that imposed obligations on claimants and their representatives when informing SSA of written evidence beyond the plain language requirements of the regulations.

The new Ruling provides that claimants must provide SSA with "information specific enough to identify the evidence (source, location, and dates of treatment)

and show that the evidence relates to the individual's medical condition, work activity, job history, medical treatment, or other issues relevant to whether or not the individual is disabled or blind." If the information is not "specific enough to allow [SSA] to identify the written evidence and understand how it relates to whether or not the individual is disabled or blind" then SSA will not request the evidence. The Ruling also specifies that SSA expects claimant representatives "to submit or inform [SSA] about written evidence as soon as they obtain or become aware of it" and notes further that they "should not wait until 5 business days before the hearing to submit or inform us about written evidence unless they have compelling reasons for the delay." Moreover, the Ruling warns that "it is only acceptable for a representative to inform [SSA] about evidence without submitting it if the representative shows that, despite good faith efforts, he or she could not obtain the evidence. Simply informing [SSA] of the existence of evidence without providing it or waiting until 5 days before a hearing to inform [SSA] about or provide evidence when it was otherwise available . . . could be found to violate [SSA's] rules of conduct and could lead to sanction proceedings against the representative."

Chapter 5, Section C (Appeals Council Review) at p. 73, second paragraph:

Beginning in 2018, claimants and representatives can request Appeals Council Review electronically and those requests will be routed automatically to the correct Appeals Council branch. Requests for review can also still be filed by mail with hard-copy forms. However, if an attorney requests direct payment of attorney's fees electronic filing is mandatory. 20 C.F.R. §§ 404.1713, 416.1513; SSR 19-3p (2019).

Chapter 5, Section C (Appeals Council Review) at p. 74, first paragraph:

Current regulations provide that any new and material evidence presented to the Appeals Council must not only relate to the period on or before the date of the administrative hearing decision, but there must also be "a reasonable probability that the additional evidence would change the outcome of the decision." 20 C.F.R. §§ 404.970(a)(5), 416.1470(a)(5).

Chapter 5, Section D.1 (Social Security Rulings and the Program Operations Manual System (POMS), at p. 75, after first paragraph:

SSA issued new rules in 2020 on how "guidance documents" are to be treated. See 85 Fed. Reg. 51337 (August 20, 2020). These documents are described as "agency statements of general applicability, intended to have future effect on the behavior of regulated parties, that set forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation." 20 C.F.R. § 426.10(a). The

new rules confirm that these documents "lack the force and effect of law" unless otherwise authorized by law or contract, and "are intended only to provide clarity to the public regarding existing requirements under the law or agency policies. When a guidance document is binding because the law authorizes binding guidance or because a contract incorporates the guidance, we will modify the disclaimer to reflect either of those facts." 20 C.F.R. § 426.15.

Chapter 5, Section D.3.A (General Rules on Weight and Sufficiency) at pp. 80-83:

The Social Security Administration issued new regulations in 2017 revising its rules for evaluating medical evidence. *See* "Revisions to Rules Regarding Medical Evidence," 82 Fed. Reg. 5844 (January 18, 2017). These rules state broadly that adjudicators will evaluate all medical opinions and findings using the factors set out in the regulations, with supportability and consistency as the most important factors. Other factors which "will be considered" and about which adjudicators "may but are not required to explain" are a medical source's "treatment relationship" with the claimant (including the length, frequency, purpose and extent of the treating relationship and whether the source has an examining, as opposed to a non-examining, relationship with the claimant), the source's specialization, and "other factors" such as whether the source has familiarity with other evidence in the claim or understanding of the SSA disability program's policies and evidentiary requirements. 20 C.F.R. §§ 404.1520c(b),(c); 416.920c(b),(c). These rules also affect the operation of the long-standing "treating physician rule," discussed below in Section D.3.B.

Chapter 5, Section D.3.A (General Rules on Weight and Sufficiency) at pp. 81, first full paragraph:

The Social Security Administration has expanded the category of "acceptable medical sources" to include licensed advanced practice nurses, licensed physician assistants and licensed audiologists (for audiological impairments). 20 C.F.R. §§ 404.1502(a), 416.902(a).

Chapter 5, Section D.3.B (Treating Physicians vs. Consulting Physicians) at pp. 83-84:

2017 regulations effectively negated the long-standing "treating physician rule" along with modifying its general rules for evaluating physician and other medical evidence. *See* "Revisions to Rules Regarding Medical Evidence," 82 Fed. Reg. 5844 (January 18, 2017); *see also id.*; 82 Fed. Reg. 15263 (March 27, 2017) (rescinding

SSR 96-2p, SSR 96-5p and SSR 06-3p); SSR 17-2 (rescinding and replacing SSR 96-6p). The new rules provide that: "We will not defer or give any specific evidentiary weight, including controlling weight, to any medical opinion(s) or prior administrative medical finding(s), including those from your medical sources." 20 C.F.R. §§ 404.1520c(a); 416.920c(a). Courts may effectively implement the current regulations as they had the prior regulations. *See, e.g.*, Cuevas v. Comm'r of Soc. Sec., No. 20-CV-0502 (AJN) (KHP), 2021 WL 363682, at *9 (S.D.N.Y. 2021) (collecting and surveying Second Circuit district court cases considering current regulations, and concluding that they show that "the essence" of the treating physician's rule remains the same and "the factors to be considered in weighing the various medical opinions in a given claimant's medical history are substantially similar") (citations omitted). The broader set of new rules are discussed above in Section D.3.A.

Chapter 5, Section D.4 (Vocational Experts) at p. 85, first full paragraph:

Vocational experts often rely on job descriptions and figures from various texts, such as the Dictionary of Occupational Titles (DOT). Questions arise as to what extent administrative law judges must question vocational experts about any conflict between their testimony and the DOT, with some courts finding that ALJs have an affirmative duty to do so. The Supreme Court addressed the narrow issue whether a vocational expert's refusal to provide support for an opinion categorically precludes the testimony from being substantial evidence in Biestek v. Berryhill, ___U.S. ___, 139 S. Ct. 1148, 266 Soc. Sec. Rep. Serv. 23 (2019). The Court declined to adopt a categorical rule, explaining instead that the inquiry must be considered on a case-by-case basis taking "into account all features of the vocational expert's testimony, as well as the rest of the administrative record." In an early post-*Biestek* opinion, the Seventh Circuit encouraged vocational experts to follow "best practice" by providing underlying sources at ALJ hearings and cautioned that the court "will review on a case-by-case basis situations where a vocational expert does not produce his sources and the ALJ declines to require him to do so. In some cases, the vocational expert's testimony may prove to be unreliable without underlying sources, and in those cases the testimony may neither constitute substantial evidence nor be used as the basis for an ALJ's determination." Krell v. Saul, 931 F.3d 582, 587, 271 Soc. Sec. Rep. Serv. 422 (7th Cir. 2019). Other post-*Biestek* court of appeals decisions suggest that the courts are receptive to challenges on a case-by-case basis. See, e.g., Goode v. Commissioner of Social Security, 966 F.3d 1277 (11th Cir. 2020), Brace v. Saul, 970 F.3d 818 (7th Cir. 2020).

Chapter 5, Section D.5 (Credibility of Claimants and Lay Witnesses) at bottom of p. 86:

The Social Security Administration restated its policy concerning the role of credibility findings relative to subjective statements of pain and other symptoms in a 2016 Ruling. SSR 16–3p (2016) separates the concept of "credibility" from an evaluation of a witness's character or general believability in favor of more specific evidentiary support. In an early case interpreting and applying SSR 16-3p, the Court of Appeals for the Fourth Circuit stated in reference to the Ruling: "The change in wording is meant to clarify that administrative law judges aren't in the business of impeaching claimants' character; obviously administrative law judges will continue to assess the credibility of pain assertions by applicants, especially as such assertions often cannot be either credited or rejected on the basis of medical evidence." Cole v. Colvin, 831 F.3d 411, 414 (7th Cir. 2016).

Chapter 6, Section A (Jurisdiction) at p. 89, before Note on Remands:

The Supreme Court revisited the reasoning in *Califano v. Sanders* relative to federal court review of dismissals for failure to file a timely administrative appeal in 2019. In a major break from what had become the firmly accepted understanding of *Sanders*, the Court ruled that such dismissals are appealable final decisions regardless of whether a hearing was held on the timeliness of the appeal. Smith v. Berryhill, ___U.S.___, 139 S.Ct. 1765, 268 Soc. Sec. Rep. Serv. 353 (2019).

In Brown v. Kijakazi, 11 F.4th 1008 (9th Cir. 2021), the Ninth Circuit clarified that in a claimant's appeal from the unfavorable portion of a partially favorable administrative decision, courts lacks jurisdiction to entertain a request by SSA to set aside the favorable portion of its decision.

Chapter 6, Section B (Scope of Judicial Review) at p. 91, at the end of the second paragraph:

On the other hand, issue exhaustion is not applied where an issue was not raised before the Appeals Council, Sims v. Apfel, 530 U.S. 103 (2000), and the Court recently refused to apply it where an Appointments Clause issue was not raised at the ALJ level. Carr v. Saul, ___U.S.___, 141 S.Ct. 1352, 209 L.Ed.2d 376 (2021).

Chapter 6, Section C.1 (Fee from the Claimant) at p. 94, end of subsection:

In a case resolving past conflicts among the circuit courts of appeal, the Supreme Court ruled in 2019 that the 25% limit on fees applies only to in-court

representation and therefore the total fee for court and administrative representation can exceed that limit. Culbertson v. Berryhill, ___U.S.___, 139 S.Ct. 517, 263 Soc. Sec. Rep. Serv. 358 (2019). Both parts of the fees, however, must meet the appropriate reasonableness standard. The *Culbertson* decision affects only the 25% fee limitation; the 25% limit on withheld benefits remains and therefore any fee in excess of the withheld amount must be collected directly from the client.

Chapter 7, Section A.2 (SSI Standard of Need) at p. 99, second paragraph:

The amounts for 2022 are $841 for an individual and $1,261 for an eligible couple.

Chapter 7, Section A.3 (Payment of Benefits) at p. 100:

Congress eliminated the 5-month waiting period for persons with amyotrophic lateral sclerosis (ALS), or "Lou Gehrig's disease," who applied for disability benefits on or after December 23, 2020. ALS Disability Insurance Access Act of 2019, Public Law No: 116-250, 134 Stat. 1128 (December 22, 2020); 20 CFR § 404.315(a)(4)(i)(ii).

Chapter 7, Section D (Suspension of Benefits) at p. 103:

SSA regulations also prohibit persons convicted of any offense resulting in imprisonment for more than one year unless "the nature of the conviction is such that selection of the applicant poses no risk to the beneficiary and the exception is in the beneficiary's best interest." 20 C.F.R. §§ 404.2022(b), 416.622(b).

Chapter 7, Section E (Representative Payees) at p. 104:

Beginning in 2020, claimants are allowed to designate a preferred represented payee in advance. 20 C.F.R. §§ 404.2028, 416.918; see also 85 Fed. Reg. 7661 (Feb. 11, 2020). SSA will consider appointing such "advance designees" before considering any other potential representative payee. 20 C.F.R §§ 404.2021, 416.921.