

To Whom It May Concern:

I am appealing the determination by SSA's Freedom of Information Officer Mary Ann Zimmerman that my request is non-program related, and as a result, that fees should be charged. Furthermore, if fees are ultimately charged, the estimated fee is grossly overstated. Each issue is addressed in turn.

My Request Is Program Related Under 20 CFR 402.170(a)(1), 402.170(a)(2)(i)(A), and 402.170(a)(2)(i)(C)

My Request Is Program Related Under 20 CFR 402.170(a)(1)

Under 20 CFR 402.170(a)(1), a request is considered program related if the information must be disclosed under the Social Security Act. The information my request encompasses must be disclosed under the Social Security Act. Specifically, the records I have requested are HALLEX instructions governing the adjudication of redeterminations based on fraud or similar fault under section 205(u) of the Social Security Act.

Under the Freedom of Information Act ("FOIA"), SSA is required to make available to the public the instructional manuals issued to SSA's employees, general statements of policy, and other materials that are used in processing claims and that are not published in the Federal Register. (20 CFR 402.45(b)). HALLEX instructions are among these manuals (*see* 20 CFR 402.50 and 402.60(b)). Furthermore, SSA is prohibited from *using* or citing any HALLEX instructions as a precedent for an action against a person unless SSA has indexed the record and published it or made it available, or unless the person has timely notice of the record (20 CFR 402.45(c)).

The HALLEX instructions I have requested are not available to the public as I have requested any and all *nonpublic* HALLEX instructions. If adjudicators are relying on such instructions to deny claims or otherwise act against a claimant (e.g., disregarding evidence from certain actors during certain date ranges that are otherwise not public), then such reliance is in direct contravention of 20 CFR 402.45(c). Those instructions are required to be disclosed under the Social Security Act.

My Request Is Program Related Under 20 CFR 402.170(a)(2)(i)(A)

Likewise, my request is considered program related under 20 CFR 402.170(a)(2)(i)(A) because the information will be used for a purpose that is directly related to the administration of a program under the Social Security Act. Specifically, the HALLEX instructions I am requesting directly relate to adjudication of redeterminations of Title II disability claims under section 205(u) of the Social Security Act.

My Request Is Program Related Under 20 CFR 402.170(a)(2)(i)(C)

Likewise, my request is considered program related under 20 CFR 402.170(a)(2)(i)(C) because the information is needed in connection with an activity that has been authorized

under the Social Security Act. Specifically, section 205(u) of the Social Security Act requires that SSA redetermine certain applications in which SSA has reason to believe that fraud or similar fault was involved in the individual's application. The HALLEX instructions I am requesting are needed to determine how SSA will adjudicate certain redeterminations under 205(u) of the Social Security Act – e.g., if SSA directs adjudicators to disregard evidence from certain actors during certain date ranges that are otherwise not public.

If Fees Are Charged, the Estimated Fee of \$330 Is Grossly Overstated

The information I have requested is information that is already required to be made available to the public and that is easily and quickly accessible to SSA employees in carrying out their daily duties. I have requested very *specific* HALLEX instructions – i.e., only those nonpublic instructions within HALLEX I-5-6 *et seq.* pertaining to certain actors. It should takes no longer than 30 minutes to find the HALLEX instructions I have requested in SSA's internal systems.

Please let me know if you need any additional information or have any questions related to this appeal. If my appeal is not granted and the HALLEX instructions are not made available to the public, please let me know how I can appeal such decision.

Regards,

PRFraud