

PURSUANT TO THE PROVISIONS OF SECTION 3 OF REPUBLIC ACT NO. 1161, AS AMENDED, OTHERWISE KNOWN AS THE SOCIAL SECURITY LAW, THE FOLLOWING RULES GOVERNING THE FILING, DETERMINATION...

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RULE I

Title and Construction

SECTION 1. Title of the Rules . — These rules shall be known as the Rules on Pleading, Practice and Procedure of the Commission.

SECTION 2. Technical Rules Not Binding . — These rules shall be liberally construed to carry out the objectives of the Social Security Law and to assist the parties in obtaining expeditious and inexpensive settlement or resolution of any dispute arising under the Social Security Law.

In any proceeding before the Commission or any of the Commissioners or Hearing Officers, which shall be nonlitigious in nature, the rules of evidence prevailing in the courts of law or equity shall not be controlling and it is the spirit and intention of these rules that the Commission and the Commissioners or Hearing Officers shall use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law or procedure, all in the interest of due process.

SECTION 3. Suppletory Application of the Rules of Court and Jurisprudence . — In the absence of any applicable provision in these rules, the pertinent provisions of the Revised Rules of Court of the Philippines and prevailing jurisprudence may, in the interest of expeditious settlement of claims and whenever practicable and appropriate, be applied in a suppletory character and effect.

RULE II

Pleadings and Appearances

SECTION 1. Title of, Parties to, and Dockets of, Cases . — The initial pleading in all cases filed before the Commission shall be known and denominated as "Petition." The party brining the action shall be called the "Petitioner," and the party against whom the relief is sought shall be called the "Respondent." The full names of all the parties shall be stated in the caption of the petition. The petition shall be assigned a docket number in the order of the date and time of filing thereof.

The caption shall be as follows:

"Republic of the Philippines

SOCIAL SECURITY COMMISSION

Quezon City, Metro Manila

Philippines

Petitioner, SSC Case No.

— versus — (Mo. No. Yr.)

Respondent, FOR: (State nature of action

such as Coverage,

Social Security System, Non-remittance of Premiums,

Intervenor. for Correction of Record, etc.)

*(Title of Pleading)"

SECTION 2. Filing of Petition . — No petition shall be docketed by the Clerk of the Commission or his Deputy unless the petition is accompanied by the written action of the Administrator or the manager of the Department or Region concerned on the question at issue, and is duly verified.

If the petition is not accompanied by the written action aforementioned, the petitioner shall be advised to first file his claim before the Department or Regional Office concerned. In cases where the petition is sent through the mails, the same should be returned to the petitioner with the proper advice as to the procedure in filing petitions before the Commission.

In all cases filed with the Commission, the SSS shall be an indispensable party either as respondent or intervenor.

SECTION 3. Who May File Petition . —

(a) Private Person — Any person, natural or juridical, who may be prejudiced by the enforcement or non-implementation of the provisions of the Social Security Law may file a verified petition before the Commission either personally or through counsel.

(b) The SSS in appropriate cases may file a verified petition before the Commission thru its legal counsel.

SECTION 4. Contents of Petition . — The verified petition shall state the following:

(a) Name, capacity to sue and address of petitioner;

(b) Name and address of respondent;

(c) A clear and concise statement of the cause or causes of action. If the cause of action involves violation of the SS law, the particular section or sections of the law violated shall be indicated. If the act complained of concerns a rule, regulation, resolution, memorandum or order of the Commission, the date of the promulgation of such rule, regulation, resolution, memorandum or order should be mentioned whenever practicable;

(d) Other jurisdictional facts;

(e) The remedy or relief sought.

SECTION 5. Summons. Upon filing of the petition, the Clerk of the Commission shall forthwith issue the corresponding summons to respondent and to intervenor SSS together with a copy of the petition.

SECTION 6. Service of Summons . —

(a) Personal Service. — The summons shall be served by handing a copy thereof to the respondent in person, or, if he refuses to receive it, by tendering it to him.

(b) Substituted Service. — If the respondent cannot be served within a reasonable time as provided in the preceding paragraph, service may be effected (a) by leaving copies of the summons at the respondent's dwelling or residence with some person of suitable age and discretion then residing therein, or (b) by leaving

the copies at respondent's office or regular place of business with some competent person in charge thereof.

(c) Service upon Association. — When persons associated in business are sued under a common name, service may be effected upon all the respondents by serving upon any one of them, or upon the person in charge of the office or place of business maintained in the common name. But such service shall not bind individually any person whose connection with the association has, upon due notice, been served before the action was brought.

(d) Service upon Minors. — When the respondent is a minor, service shall be made on his guardian or person exercising parental authority over him.

(e) Service upon Insane or Incompetent. — When the respondent is insane or judicially declared incompetent, service shall be effected on his guardian or person exercising parental authority over him.

SECTION 7. Proof of Service . — The proof of service of a summons shall be made in writing by the server and shall set forth the manner, place and date of service; shall specify any papers which have been served with the process and the name of the person who received the same.

SECTION 8. Answer. — Within fifteen (15) calendar days from service of summons and a copy of the petition, respondent as well as intervenor SSS shall file his answer or intervention, as the case may be, and serve a copy thereof upon petitioner. Extensions shall not be granted except when, in the discretion of the Hearing Commissioner, there are good reasons therefor.

Before an answer is filed, the respondent may file a motion to dismiss or any responsive pleading within the same period, and such motion shall interrupt the time for filing the answer. Upon its denial, the respondent shall have what remains of the original period within which to file the answer.

SECTION 9. Default . — If the respondent fails to answer within the time prescribed under the preceding section, the Hearing Commissioner may, upon motion of petitioner or motu proprio, declare respondent in default and shall forthwith proceed to receive the petitioner's evidence ex- parte and thereafter recommend to the Commission either the granting or denial of the petition as the evidence may warrant.

SECTION 10. Appearances . — An attorney appearing for a party is presumed to be properly authorized for that purpose.

A non-lawyer may appear before the Commission or Hearing Officer only if:

- (a) He represents himself as party to the case;
- (b) He represents an organization or its members; provided That, he shall be made to present written proof that he is an authorized representative of the organization or its members; or
- (c) He is a law student who has successfully completed his 3rd year of the regular four-year prescribed law curriculum and is enrolled in a recognized law school's clinical legal education program approved by the Supreme Court. He may appear without compensation before the Commission to represent an indigent or low income litigant accepted by the legal clinic. The appearance of such law student shall be under the direct supervision and control of a member of the Integrated Bar of the Philippines duly accredited by the law school. Any and all pleadings, motions, brief, memoranda or other papers to be filed must be signed by the supervising attorney for and in behalf of the Legal Clinic.

The rules safeguarding privileged communication between attorney and client shall apply to similar communications made to or received by the law student, acting for the legal clinic.

The law student shall comply with the standards of professional conduct governing members of the Bar. Failure of an attorney to provide adequate supervision of student practice may be ground for disciplinary action.

Appearances may be made orally or in writing. In both cases, the complete office address shall be made of record and the adverse party or his counsel or representative properly advised.

Any change in the address of counsel or representative should be filed with the record of the case and furnished the adverse party or counsel.

SECTION 11. Authority to Bind Party. — Attorneys and other representatives of parties shall have authority to bind their clients in all matters of procedures; but they cannot, without a special power of attorney or express consent, enter into a compromise agreement with the opposing party in full or partial discharge of a client's claim.

SECTION 12. Fee of Agents, Attorneys, etc. — No agent, attorney or other person in charge of the preparation, filing or pursuing any claim for benefit under the Social Security Law shall demand or charge for his services any fee, and any stipulation to the contrary shall be null and void. The retention or deduction of any amount from any benefit granted under the aforementioned Law for the payment of fees for such services is prohibited: Provided, however, That any member of the Philippine Bar who appears as counsel in any case heard by the Commission shall be entitled to attorney's fees not exceeding ten percent of the benefits awarded by the Commission, which fees shall not be payable before the actual payment of the benefits, and any stipulation to the contrary shall be null and void.

RULE III

Jurisdiction of the Commission

SECTION 1. Jurisdiction . — Any dispute arising under the Social Security Law with respect to coverage, entitlement of benefits, collection and settlement of contributions and penalties thereon, or any other matter related thereto, shall be cognizable by the Commission after the SSS through its Department or Regional Manager concerned had first taken action thereon in writing.

RULE IV

Venue Designation of Hearing Commissioner and Hearing Officer

SECTION 1. Venue . — All complaints or petitions shall be filed with the Clerk of the Commission at the SSS Main Office in the Quezon City, Metro Manila, Philippines.

SECTION 2. Designation of Hearing Commissioner to Hear Case . — Any member of the Commission may be assigned to hear a case pending before it and shall have the power to issue interlocutory orders and similar processes of the Commission. When so acting, the Hearing Commissioner shall bind the entire Commission which for all intents and purposes shall be considered that one actually issuing the interlocutory orders and similar processes; provided, That resolutions or orders proposed by the Hearing Commissioner, which finally dispose of a case shall be submitted to the Commission en banc for approval and confirmation before the promulgation thereof.

SECTION 3. Designation of Hearing Officers . — Any official or employee of the Commission, Commission Legal Staff, Commission Secretariat, and the Regional Offices, who is a lawyer, may be designated by the Commission as Hearing Officer with the following specific powers and duties;

- (a) to receive the evidence, oral or documentary, or all parties to a case, including the admission or exclusion of evidence;
- (b) to issue interlocutory orders and other similar processes in the course of a formal hearing presided over by him except lifting orders or default and substitution of parties;
- (c) to appoint counsel de officio from pauper litigants who are unable to secure the assistance of counsel;
- (d) to perform such other acts as may be directed to be done by the Hearing Commissioner and as fairness and

justice may warrant.

SECTION 4. Change of Venue . — The Hearing Commissioner may, upon motion of a party or motu proprio, transfer on meritorious grounds the venue of hearing of the case from the SSS Main Office to any SSS Regional or Provincial Office.

RULE V

Proceedings before the Hearing Commissioner or Hearing Officer

SECTION 1. Pre-hearing . — After the answer is filed, the Hearing Commissioner or Hearing Officer may, upon motion of any interested party or in its own, direct the parties and/or their attorneys to appear before it for a conference to consider:

- (a) Possible settlement of the case;
- (b) Simplification of the issue;
- (c) Advisability of amendment to pleadings;
- (d) Possibility of stipulation of facts;
- (e) Possible limitation on the number of witnesses to be presented;
- (f) Necessity and advisability of referring to certain issues for determination to a third person who may be commissioned for the purpose;
- (g) Such other matters as may aid in the speedy disposition of the case.

SECTION 2. Summary Judgment or Settlement . — If the petition does not raise a question of fact and involves purely questions of law, the Hearing Commissioner or Hearing Officer shall recommend to the Commission the disposition of the case based on the pleadings and documents submitted, and on existing applicable jurisprudence or previous decisions, rules and regulations of the Commission. In cases of first impression; the parties aside from the pleadings filed, may be required to submit their respective position papers or memoranda. However, the Hearing Commissioner or Hearing Officer may call the parties to hearing to answer clarificatory questions after the submission of their respective position paper or memoranda.

SECTION 3. Continuance and Postponements . — Request for postponements of hearing may be granted by the Hearing Commissioner or Hearing Officer only when filed at least three (3) days before the date of hearing, copy furnished the other parties, unless the Hearing Commissioner or Hearing Officer, in the exercise of his discretion or in the interest of justice, allows a different mode of continuance. Provided, however, That no more than three (3) postponements upon the request of either of the parties, shall be allowed during the pendency of the case, except for very good reasons in the discretion of the Hearing Commissioner or Hearing Officer.

SECTION 4. Oaths, Affirmations, Witnesses and Production of Records . — In all cases pending before it or referred to it, the Commission shall have the power to issue subpoena ad testificandum and subpoena duces tecum to compel the person to testify and to produce books, papers and other records deemed necessary as evidence. Any person who without lawful excuse, shall fail or refuse to make oath, give testimony or produce documentary evidence shall be dealt with accordance with Section 7 of the Social Security Law. In case of failure or refusal to produce documents for examination, the person concerned may likewise be liable for prosecution under Section 28 (e) of Social Security Law.

The Commissioners or Hearing Officers duly designated to hear cases and the Clerk and Deputy Clerks of the Commission, shall have the power to administer oaths or affirmation in all matters pending before the

Commission.

SECTION 5. Submission of Position Papers . — During the initial conference or hearing, or immediately thereafter, the Hearing Commissioner or Hearing Officer shall require the parties to simultaneously submit their respective verified position papers, which shall cover only the issues raised in the petition, accompanied by all supporting documents then available to them and the affidavits of their witnesses which shall take the place of their direct testimony. The parties shall thereafter not be allowed to allege, or present evidence to prove facts not referred to and any cause of action not included in their complaint or position papers, affidavits and other documents. The parties shall furnish each other with copies of the position papers, together with the supporting documents submitted by them.

SECTION 6. Determination of Necessity of Hearing . — Immediately after the submission by the parties of their position papers and supporting proofs, the Hearing Commissioner or Hearing Officer shall determine whether there is a need for a formal hearing or investigation. He may elicit pertinent facts or information, including documentary evidence, if any, from any party or witness to complete the facts of the case. Facts or information so elicited may serve as basis for clarification, simplification or limitation of the issues in the case, encouraging for this purpose the submission by the parties of admissions and stipulations of fact to abbreviate the proceedings.

SECTION 7. Role of Hearing Commissioner or Hearing Officer in Proceedings . — The Hearing Commissioner or Hearing Officer shall personally conduct the hearing. He shall take full control of proceedings, examine the parties and their witnesses to satisfy himself with respect to the matters at issue and may allow the parties or their counsel to ask questions only for the purpose of clarifying points of law or of fact involved in the case. He shall limit the presentation of evidence to matters relevant to the issue before him and necessary for a just and speedy disposition of the case.

SECTION 8. Presentation of Evidence . — As a general rule, the petitioner shall be the first to present his evidence to support his case.

SECTION 9. Extent of Cross-examination . — In the cross-examination of witnesses, only relevant, pertinent and material questions necessary to enlighten the Commission shall be allowed.

SECTION 10. Transcript . — All hearings of the Commission shall be attended by a stenographer who shall take down notes of all the proceedings had therein. At the end of each hearing, it shall be the duty of the stenographer to immediately transcribe all the notes taken thereat and deliver said notes as well as the transcription thereof to the Clerk of the Commission, to be attached to the records of the case. Any interested party may secure the transcript of the stenographic notes taken at the hearing of his case by paying the stenographer concerned a fee of one peso (P1.00) per each typewritten page thereof, provided That, upon written request, and "indigent or low income litigant" shall be furnished a free certified transcript of said notes. For this purpose, an "indigent or low income litigant" shall include anyone who has no visible means of support or whose income does not exceed three hundred pesos (P300.00) per month or whose income even in excess of three hundred pesos (P300.00) per month is insufficient for the subsistence of his family, which fact shall be determined by the Hearing Commissioner or Hearing Officer.

RULE VI

Commission En Banc

SECTION 1. Hearing En Banc . — The Commission may hold hearings en banc when so recommended by the Hearing Commissioner.

SECTION 2. Contents of Decisions . — The orders, resolutions, awards and decisions of the Commission on the

merits of the case shall be in writing, which may or may not be based on the recommendation of the Hearing Commissioner and shall state clearly and distinctly the facts and the law or regulations on which it is based and filed with the Clerk of the Commission.

In making the orders, resolutions, awards and decisions, the Commission shall not be restricted to the specific relief claimed or demands made by the parties to the controversy, but may include a determination of any matter which may be deemed necessary or expedient for the purpose of settling the controversy or preventing further controversy.

SECTION 3. Findings and Recommendations . — Within twenty (20) calendar days after the parties shall have submitted the case for decision, the Commissioner designated by the Commission to hear the case, shall submit the record of the case together with the findings and recommendations, to the Commission which may adopt, modify or reverse the findings or remand the case of the Commissioner for hearing and further reception of evidence.

SECTION 4. Resolutions, Orders, Awards, etc. — All final orders, resolutions, awards or decisions of the Commission shall require the concurrence of the majority of the Commissioners constituting a quorum and shall bear the seal of the Commission.

SECTION 5. Motion for Reconsideration . — The party aggrieved by the order, award, or resolution of the Commission may file a motion for reconsideration thereof within fifteen (15) calendar days from receipt of the same.

The filing of the motion for reconsideration shall interrupt the running of the period to appeal, unless said motion is pro-forma.

The party interested in upholding the order, award, resolution or decision of the Commission may file his opposition to the motion for reconsideration at any time before the resolution thereof, provided, That not more than one motion for reconsideration shall be allowed to any party.

SECTION 6. Finality of Decision or Awards . — An order or resolution of the Commission shall become final after the expiration of the period within which to appeal without such appeal having been filed. However, if the order, award, decision or resolution of the Commission is adverse to or against the SSS (or in favor of the other party who does not interpose any objection thereto, whether the latter is a petitioner or respondent), the same shall immediately become final and executory.

SECTION 7. Service of Orders, Awards, Decisions, Resolutions . — All orders, awards, decisions or resolutions of the Commission shall be served by the Clerk of the Commission upon the parties personally or by registered mail. In case of service by registered mail, the registry return card shall be prima facie evidence of the receipt of the order, award, decision or resolution, by the addressee in due course of mail.

Personal service is complete upon actual delivery. Service by registered mail is complete upon actual receipt by the addressee; but if he fails to claim his mail from the post office within five (5) days from the date of first notice of the postmaster, service shall take effect at the expiration of such time.

RULE VII

Appeals

SECTION 1. Appeal . — Any decision of the Commission, in the absence of an appeal therefrom as herein provided, shall become final fifteen (15) calendar days after the date of notification to the parties and judicial review thereof shall be permitted only after any party claiming to be aggrieved thereby has exhausted his remedies before the Commission. The filing of the motion for reconsideration by any party suspends the running of the period of appeal. A party may appeal to the Court of Appeals, on question of fact, or both on questions of fact and law.

If the decision of the Commission involves only questions of law, the same shall be reviewed by the Supreme Court. In either appeal, no appeal bond shall be required. If no appeal is perfected within the periods hereinabove fixed, the order, award, decision or resolution of the Commission shall become final and may be executed as provided herein.

In all appeals, the Commission shall be made a party respondent or appellee and shall be represented by an attorney retained or employed by the Commission either alone or in collaboration with the solicitor general's office; Provided, That no appeal shall be brought by the SSS against the decision of the Commission.

SECTION 2. How Appeals Taken . — Appeals shall be taken by filing a notice of appeal with the Commission and the Court of Appeals or the Supreme Court, as appropriate, serving a copy thereof or all other interested parties. The notice of appeal shall state under oath, the material dates to show that it was perfected within the reglementary period. No record on appeal shall be filed.

No appeal shall serve as supersedeas or a stay of the order of the Commission unless the Commission itself, or the Court of Appeals or the Supreme Court, shall so order.

RULE VIII

Execution

SECTION 1. Execution of Decisions . — Any decision or award of the Commission after the same has become final and executory shall be enforced and executed in the same manner as decisions of Regional Trial Courts and the Commission shall have the power to issue to the City or Provincial Sheriff or the sheriff whom it may appoint such writs of execution or award. Any person who shall fail or refuse to comply with such resolution, decision, award or writ, after being required to do so shall, upon application by the Commission, be punished by the proper court for contempt.

RULE IX

Clerk of Commission

SECTION 1. Powers and Duties of the Clerk of the Commission . — The Secretary to the Commission shall be its Clerk and shall have the following powers and duties:

- (a) to receive all papers authorized or required to be filed with the Commission in connection with any question or controversy pending and to stamp the date and hour of the filing thereof;
- (b) to keep such book or books as may be necessary for recording all the proceedings of the Commission and its awards or decisions;
- (c) to compile for the purpose of publication in a series of volumes to be designated "Reports of the Social Security Commission of the Philippines", such findings and decisions of the Commission certified to by the Clerk as being, in the judgment of the Commission, of general public interest;
- (d) to administer oaths in all matters pending before the Commission; and
- (e) to perform such other duties as may be assigned to him by the Commission from time to time.

The records of the proceedings before the Commission under this rule shall be open to the public for inspection during regular office hours. The Commission, however, shall have the power to exclude particular record or records from public scrutiny which in its judgment, are of such a confidential character that their revelation would be prejudicial to either party to the case.

SECTION 2. Deputy Clerk. — There shall be Deputy Clerks of the Commission to be designated by the Commission who shall discharge such duties as may be assigned to them by the Commission.

RULE X**Effectivity**

SECTION 1. Effectivity . — These rules shall become effective fifteen (15) days after publication in at least two (2) newspapers of general circulation.

RULE XI**Repeal**

SECTION 1. Repeal . — All Commission Rules previously adopted and inconsistent herewith are hereby repealed.

Adopted and promulgated pursuant to Resolution No. 487 of the Social Security Commission dated July 17, 1990.

(SGD.) EMETERIO C. ROA, JR.
Chairman

30 August 1990

Hon. Renato Valencia
Administrator
Social Security System
Diliman, Quezon City

Sir:

We are transmitting herewith the attached Resolution of the Social Security Commission entitled "INCREASING THE BENEFITS AND RATIONALIZING THE MAXIMUM COMPENSATION BASE FOR CONTRIBUTIONS AND BENEFITS UNDER THE SOCIAL SECURITY LAW", which bears the approved of Her Excellency, President Corazon C. Aquino.

Best regards.

Very truly yours,

(SGD.) CATALINO MACARAIG, JR.

Executive Secretary

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