

**Proposed Amendments to Scope of Proposed Special Procedural Rules  
for Social Security Litigation in District Court**

We believe that a minor revision to Recommendation 1 would clarify the intended scope of the proposed new rules and that corresponding minor revisions to the preamble are warranted for consistency.

Our proposed revision would provide greater specificity as to what the Committee on Judicial Review agreed should be covered by the new rules. Cases to be covered by the new rules would be individual benefit claims that are appellate in nature; cases that would not be covered are those that, because of procedural and substantive differences, fall outside the scope of the rationale for the Committee's proposal.

We recommend the following revision to Recommendation 1:

*The Judicial Conference, in consultation with Congress as appropriate, should develop for the Supreme Court's consideration a uniform set of procedural rules for cases under the Social Security Act in which an individual seeks district court review of a final administrative decision of the Commissioner of Social Security pursuant to 42 U.S.C. § 405(g). These rules would not apply to class actions and other cases that are outside the scope of the rationale for the proposal.*

We are hopeful that this language accomplishes two goals. First, we want to ensure that any set of new rules focuses on the final administrative decision being challenged, rather than on the specific title of the Act under which benefits were originally sought. While the majority of benefit claims (and challenges) will relate to Titles II and XVI, there may be final decisions challenged that relate to Titles VIII or XVIII, and such challenges would fit within the ordinary mold of appellate-like cases that the new rules are designed to cover. Second, we want to note that certain types of cases, whether brought by a single plaintiff or a class of plaintiffs, may be procedurally and substantively unlike the typical Social Security case that they would fall outside the scope of the rationale for the proposal and, therefore, should be excluded from these rules.

For consistency, corresponding revisions should also be made to the preamble at lines 2–3 and 132–34, where the scope of the new rules is discussed. In addition, we believe that it would be helpful to add the following explanation to the preamble, perhaps at line 134, immediately preceding the recommendation:

*The Conference recognizes that some cases might be brought under section 405(g) that would fall outside the rationale for the proposed new rules. This could include class actions and other broad challenges to program administration, such as challenges to the constitutionality or validity of statutory and regulatory requirements, or similar broad challenges to agency policies and procedures. By citing these examples, the Conference does not intend to preclude other exclusions. The task of precisely defining the cases covered by any new rules would be worked out by the committee that drafts the rules, after additional research and more of an opportunity for public comment on the scope of the rules than has been possible for the Conference. It may also be necessary to include specific rules explaining the procedure for the exclusion of appropriate cases.*