



**CONSORTIUM FOR CITIZENS  
WITH DISABILITIES**

June 4, 2020

The Honorable Andrew Saul  
Commissioner of Social Security  
6401 Security Boulevard  
Baltimore, MD 21235-6401

Dear Commissioner Saul,

Thank you for your response to our April 17, 2020 letter about SSA's pandemic response. We appreciate the communication we have had with several SSA components and the work the agency is doing to serve the public in challenging times. We, the undersigned co-chairs of the Consortium for Citizens With Disabilities' Social Security Task Force, did want to seek clarification on and respond to several points made in your letter.

Thank you for making field office phone numbers more prominent on SSA's office locator tool, creating a way to send bar codes while hearing office staff work remotely, reminding field office staff to exclude Economic Incentive Payments from SSI income and resource determinations, and creating a mechanism to send federal court remands from the Appeals Council to hearing offices without relying on staff sending and receiving postal mail. We very much appreciate your efforts and implementation of these changes, which are critical to people receiving, applying for, or appealing a change to their benefits, as well as those who need information or assistance from SSA. Yet more work remains to be done.

SSA's response to our request that the agency establish email addresses for representatives to send documents to the Program Service Centers (PSCs), as SSA did with the Representative Call Center was "Representatives should continue to fax material to the PSCs using the existing channels they have relied on for service in the past." The problem is that SSA has not published any fax numbers for the PSCs (it does list a single fax number for fee payment issues only, and only for Title II claimants under age 54). The system of submitting documentation to field offices who would then send them on to PSCs was barely serviceable before the pandemic and has completely broken down now that there is limited staff going to the field offices. Publicizing fax numbers and/or email addresses for representatives to submit documentation directly to PSCs would speed effectuation and reduce an unnecessary burden on field office staff.

SSA's response to our concern that the agency is not conducting any non-disability hearings, including those where the Social Security Act requires determinations within 90 days, was that it was not possible to process paper cases while staff are working remotely and that the law provides exceptions when delays "occur through no fault of the Commissioner." SSA cannot be considered without fault when it has had nearly three months to develop procedures to handle paper cases and has failed to do so. We urge you to offer telephone hearings to people whose benefits are reduced,

suspended, or terminated pending their hearings, and those who have not yet received benefits on non-disability claims such as retirement and survivors' benefits. If SSA cannot meet its statutory requirements under Section 1631(c)(2) of the Social Security Act, the agency should provide due process by paying any benefits that have been terminated or denied after 90 days until such time as a hearing and decision can be offered.

SSA's response to our concerns about confusing and inaccurate language on hearing notices was "Changes would be required in both notices and forms to meet their concerns, and would be problematic for us, related to the regulatory authority we have to require telephone hearings conducted in extraordinary circumstances. Due to the rapid changes in our business processes, changes to these notices are not feasible." We understand that OMB has expedited procedures for pandemic-related notice changes and would like to know whether and when you discussed updating notices with OMB. Had SSA sought to change the notices in March, it is likely that they could have been reflective of SSA's policies by June. With hearings conducted only by phone through at least August, there is no reason for SSA not to attempt to develop and promulgate accurate notices.

Finally, we remain deeply concerned that the Appeals Council, which should have been one of the easier components to transition to remote work given its smaller caseload and minimal in-person contact with the public, has spent nearly three months unable to perform critical workloads. The Appeals Council still cannot review or process any documents that were submitted by mail or fax; unlike all hearing offices, National Hearing Centers, and National Case Assistance Centers it has not implemented electronic or desktop faxing. The Appeals Council has not established a method of sending electronic claims files by encrypted email, even though OHO, which uses the same ERE system, has been doing so since early May. The Appeals Council has also been unable to provide Certified Administrative Records for several thousand pending federal district court cases. These failures are depriving claimants of due process.

Thank you for your consideration of these important topics. We would be happy to discuss them with you and your staff at your earliest convenience.

Sincerely,

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