



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

April 17, 2020

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

Dear Commissioner Saul,

Thank you for all the work you and your staff are doing to adapt the Social Security Administration's activities and keep the public informed during these challenging times. We, the undersigned co-chairs of the Consortium for Citizens With Disabilities' Social Security Task Force, realize this is an enormous task, but one that is vital to the nearly 70 million Americans who receive Social Security benefits and the millions more who use SSA's other services.

We appreciate your efforts to make automatic economic impact payments for recipients of SSI and Title II benefits. We encourage you to continue working with the Treasury Department so that SSI and Title II beneficiaries who use the IRS non-filer portal (for example, those with dependent children) can elect to have their stimulus payments sent to their Direct Express cards.

In addition to SSA's efforts on economic impact payments, we encourage you to take several additional actions to serve the public more accurately and efficiently.

Office of Communications

Please publish field office phone numbers more prominently. Currently, the national 800 number is in two much more visible spots (symbolized with red "x"s below) and the local number (shown with a green star) is more difficult to find on the field office locator tool. With wait times on the 800 number exceeding 90 minutes, allowing people to more easily contact their local offices is critical to improving customer service.

Social Security Office Locator

Find the Office for this ZIP Code.
 ZIP:
[Zip Code Look Up](#)

Using our online services, you can:

- Apply for most types of benefits
- Estimate your future benefits
- Do so much more

To learn more, visit [What You Can Do Online](#).

Phone:
 Toll-Free:

Social Security Office Information

Address: 75 OAK STREET
 PATROCKVILLE NY 11772

Phone: 1-800-792-6213

TTY: 1-800-792-6213

Hours:

Monday	Closed
Tuesday	Closed
Wednesday	Closed
Thursday	Closed
Friday	Closed
Saturday	12:00 AM - 12:01 AM
Sunday	Closed

[Office Closings and Emergencies](#)

Hide Additional Office Information

All local Social Security offices will be closed to the public for in-person service starting Tuesday, March 17, 2020. This decision protects the population we serve, older Americans, people with underlying medical conditions and our employees during the Coronavirus (COVID-19) pandemic. For limited service, please contact the office directly at 866-999-9991.

Office of Operations

We have requested, and understand that the Office of Disability Operations is considering, creating a web page on ssa.gov indicating the daily operating status of all state agencies (DDSs). We assume that SSA is already aware of whether DDSs are completely closed, having all employees telework, or operating under a different arrangement; allowing claimants, representatives, advocates, and others to access this information would be helpful as well.

With many DDSs completely closed, it is difficult for DDS staff to obtain evidence submitted by mail or fax, and to generate CDs with claimants’ records to inform claimants and their representatives. Unfortunately, SSA has not yet provided claimants or representatives with the ability to view their electronic files or upload evidence electronically. SSA should prioritize these IT modernizations so that the agency can more efficiently process disability claims at the initial and reconsideration levels.

It would also be useful for front-line staff to receive a reminder that when a claimant or beneficiary is represented, POMS <https://secure.ssa.gov/apps10/poms.nsf/lnx/0203910050> requires SSA to contact the representative rather than the claimant, with very limited exceptions. Compliance with this rule has been an issue well before the pandemic, but it is especially important now.

We appreciate that the Office of Disability Operations created an email address for representatives to send documents to the Representative Call Center (RCC). However, it would be useful for SSA to have similar email addresses for representatives to send documents to the Program Service Centers (PSCs) since the RCC email address cannot be used for any other unit or module. The PSCs often need documentation, such as information about workers’ compensation benefits, to effectuate decisions. With field offices closed, it is more important than ever for PSCs to have adequate channels of communications.

Office of Retirement and Disability Policy

We appreciate that SSA has publicized the fact that economic impact payments are excluded from SSI resource determinations for 12 months. However, since many SSI recipients will have those payments deposited into bank accounts and may have balances exceeding \$2000, it would be useful to send an emergency message reminding SSA staff how to properly develop any alerts that are generated, and how to provide due process to SSI recipients before and after suspending benefits for alleged excess resources.

We are also concerned that people who contact SSA's teleservice center or otherwise indicate that they would like to file a claim may not have that inquiry recorded as a protected filing date, especially if the individual is told that no appointments are available to take their claim. This could deprive people of benefits, especially those like SSI or survivors' benefits where online claims are not available. An Emergency Message reminding staff of how to document inquiries and how to locate those inquiries and use them as the protected filing date for a claim would help ensure that people do not miss out on benefits for which they are entitled.

SSA should consider allowing people whose benefits are suspended pending appeal of a Continuing Disability Review finding or other agency action to request benefit continuation even if they are past the deadline to do so, by writing and making publicly available subregulatory guidance indicating that the pandemic provides good cause for granting late requests.

Office of Hearing Operations

SSA has announced that the agency "will not conduct any non-disability hearings." We urge you to reconsider. Please 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. Claimants and beneficiaries should not be required to accept telephone hearings but should be allowed to have them if they so desire. We note that Section 1631(c)(2) of the Social Security Act states that determinations in SSI non-disability cases "shall be made within ninety days after the individual requests the hearing" and we encourage SSA to follow the law unless a claimant or beneficiary wishes to waive the deadline in order to have a video or in-person hearing when SSA begins to offer them again. If it is believed that this statutory deadline cannot be met because of difficulties within the agency, we urge SSA to reinstate any benefits that have been terminated or denied after 90 days until such time as a hearing and decision can be offered as the statute envisions. This deadline in the SSI program is a reflection of Congress' recognition of the essential role that SSI plays for people that otherwise face what the Supreme Court in *Goldberg v. Kelly* called "brutal need" in emphasizing the right to a due process hearing.

OHO issued a Chief Judge's Bulletin (CJB) regarding procedures during the pandemic on April 3, 2020. However, the Bulletin has not been published with other CJBs at <https://secure.ssa.gov/apps10/reference.nsf/instructiontypecode!openview&restricttcategory=CJB>. Advocates were told in the same phone call that the April 3 CJB was both too general to be of use to claimants and representatives and too "sensitive" to be publicly released. This strains credulity. SSA issued a "Dear Colleague" letter on April 14 indicating that telephone hearings are not mandatory. Although we appreciate this pronouncement, we have several concerns.

- The "Dear Colleague" is an insufficient replacement for the CJB. At this point, claimants and representatives are left without recourse if an ALJ denies a request to postpone a telephone hearing until video and in-person hearings begin again, requires a claimant to

show cause for not appearing at a hearing to avoid dismissal, or even dismisses a case without sending a notice of good cause. HALLEX allows all of these things, and though OHO leadership have said ALJs are being directed not to do them, that is difficult for claimants and representatives to know or share with hearing office staff without having the CJB.

- The “Dear Colleague” letter says “we will grant postponements **as appropriate**” (emphasis added). It does not explain when OHO believes it is inappropriate to grant postponements, and indicates that ALJs might feel justified in denying postponement requests. We have been informed that OHO leadership feel that the Q&As on the ssa.gov/coronavirus page are a better reflection of the directions ALJs have been given, but the discrepancy between the Dear Colleague letter and the Q&As underscores the importance of publishing the actual directions ALJs have received.

SSA’s notices of hearings are also unnecessarily confusing and anxiety-producing. Many say “Due to COVID-19 restrictions all scheduled hearings will be held by telephone therefore, all parties involved will appear by telephone.” Language explaining that it is possible to opt-out of telephone hearings and describing how to do so is often missing; when it appears it is usually on a different page of the notice. OHO leadership have said that changing the notices would require OMB approval but have not indicated they are taking steps to obtain that approval.

There is also inconsistency in how hearing offices accept requests to postpone scheduled hearings until in-person or video hearings become available. Some hearing offices are requiring letter requests to postpone, others just a phone call. Some are still sending out notices of telephone hearings even when claimants have indicated a desire to wait for in-person hearings. There are ALJs who are denying postponement requests for hearings scheduled for next month, saying that in-person hearings may re-start by then and instructing claimants to reapply for postponements closer to their hearing dates if necessary; there are other hearing offices telling claimants that there will be nothing but telephone hearings for three months or more. Until OHO develops and publishes uniform procedures, confusion and inefficiency will persist. We understand that OHO is working with OMB on procedures, and encourage you to involve advocates in the development of these procedures to ensure they are accessible and understandable to claimants and representatives who have a variety of needs and limitations.

Finally, some representatives have been told that OHO could not send any of the barcodes used as cover sheets when faxing documents to claimants’ electronic files and which contain information used to upload documents electronically. If accurate, OHO must find a way for claimants and representatives to submit evidence, requests for on the record decisions and critical case designation, and other important documents to the claims file. If not, SSA should explain how representatives can request bar codes for cases where they’ve recently been appointed or the ALJ hearing request has just been made.

Office of Analytics, Review, and Oversight and Office of General Counsel

The Appeals Council receives many documents and requests for review by fax; they use actual fax machines rather than a fax-to-computer system, and this is now a problem because the machines are out of paper and their memories appear to be full. We are encouraging claimants and representatives to use SSA’s iAppeals system whenever possible and mail if necessary, but claimants who are unaware of these options may be sending their requests for review into a

technological void. We urge you to have the Appeals Council devise a way to accept faxed documents, ideally using a desktop faxing system so that staff do not have to manually load paper into fax machines and scan the faxes they receive.

An average of approximately 1500 cases are filed against SSA in federal district court each month, and it is the Appeals Council's responsibility to prepare the Certified Administrative Record in each case. However, they have not done any since staff began teleworking. Claimants who wish to request their administrative records on CDs to determine whether their Appeals Council denials should be appealed to federal court are also having trouble making those requests to the Appeals Council because of problems with the Council's phone and fax lines, and are not being sent CDs with their records even if they mail in a request. We understand that SSA is working with its contractors, the Department of Justice, and the federal courts on these issues and urge you to come to a solution as soon as possible so that cases may be adjudicated in a timely fashion.

When a federal court does remand a case to SSA, the case is first sent to the Appeals Council and then to a hearing office for a subsequent hearing if needed. Prior to the pandemic, the Appeals Council had been mailing court remands to hearing offices. We would like confirmation that an alternative method is being used so that SSA is promptly complying with federal court orders.

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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