

**NATIONAL ORGANIZATION OF  
SOCIAL SECURITY CLAIMANTS' REPRESENTATIVES  
(NOSSCR)**

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***Executive Director***  
**Barbara Silverstone**

Deputy Commissioner Theresa Gruber and Chief Administrative Law Judge Patrick Nagle  
Social Security Administration  
6401 Security Boulevard  
Baltimore, MD 21235-6401

April 2, 2020

Dear Deputy Commissioner Gruber and Chief Judge Nagle,

We hope you are doing well and staying safe during these challenging times. Thank you for your continued communication with NOSSCR.

Some of our members have been told that SSA plans to change its policy of making telephone hearings voluntary, perhaps as soon as April 27. This is not acceptable to NOSSCR and we urge you to clarify as soon as possible that telephone hearings remain optional. Claimants who want to wait for in-person hearings (or video hearings, if they have not submitted an HA-55 opt-out form) should be permitted to do so.

NOSSCR strongly opposed mandatory video hearings (see our comments at <https://nosscr.org/wp-content/uploads/2019/02/NOSSCR-Comments-VTC-FINAL.pdf>) and we were pleased when SSA decided not to finalize that part of its proposed rule. We feel equally strongly that while telephone hearings are an appropriate stop-gap for claimants who want them during this national crisis, they have serious drawbacks compared to in-person or even video hearings and no claimant should be forced to have their claim heard over the telephone.

Some claimants do not have private spaces to conduct telephone hearings. They may have limited minutes on their phones, poor reception, or no phone at all. They may have intellectual disabilities, dementia, psychotic disorders, or other conditions that make it difficult for them to understand a telephone hearing. They may have difficulty hearing; in fact, that could be one of the bases for their disability claims. Telephone hearings do not allow for sign-language interpretation. Not permitting people to wait for the reasonable modification of an in-person or a video hearing violates Section 504 of the Rehabilitation Act.

Furthermore, technological problems, such as participants in the hearing being inaudible or cut off with no way of signaling this to the ALJ or dialing back in, have already occurred during some telephone hearings. Even when a telephone hearing works perfectly, it does not allow the

ALJ to see a claimant's expression; ability to sit, stand, and walk; burns or other skin conditions; amputations; or other visual signals of impairments and functional limitations.

On a recent regional call, the speaker stated that claimants and representatives would have the ability to opt out of a telephone hearing even after it began, if there were concerns about the ALJ's focus, privacy (for example, if children or dogs were heard in the background of a hearing participant), problems with the connection, or for another reason that made the claimant feel uncomfortable proceeding by phone. NOSSCR supports this option, and if the ability to stop a telephone hearing and schedule a supplemental hearing (either by phone with the technical obstacles corrected, or by video or in-person once hearing offices reopen) were guaranteed, we believe that many more claimants would voluntarily accept a telephone hearing. We have heard from members that many claimants are opting to postpone rather than accept a hearing that could be fraught with technical difficulties.

We urge you not to pursue making telephone hearings mandatory. If you are in fact planning to continue allowing claimants the right to opt out of telephone hearings, we ask you to clarify that with NOSSCR as soon as possible and to share the information with all ALJs and OHO staff so that they can provide accurate information to claimants and representatives.

Sincerely,

Barbara Silverstone  
Executive Director