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**LEGAL SERVICES**  
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1340 Poydras Street, Suite 600 • New Orleans, Louisiana 70112 • Telephone: (504) 529-1000 • Fax: (504) 596-2241  
www.slls.org • www.louisianalawhelp.org • <http://tinyurl.com/sllsfacebook>

April 14, 2025

Leeland Dudek, Acting Commissioner of Social Security  
Social Security Administration  
6401 Security Blvd.  
Baltimore, Maryland 21235  
Submitted Online Via:  
*By Electronic Submission via [www.federalregister.gov](http://www.federalregister.gov)*

**Docket No: SSA-2025-0003**

**RE: Comments in response to 90 Fed. Reg. 9488 Agency Information Collection Activities:**

Dear Acting Commissioner Dudek:

We thank you for the opportunity to provide the following comments regarding the Social Security Administration's proposed rule changes published on February 12, 2025 to the Federal Register in Vol. 90, No. 28. This comment is submitted on behalf of Southeast Louisiana Legal Services, a nonprofit civil legal aid organization that provides free legal representation in SSI and SSDI claims from the start of the initial applications up to federal court litigation. We have a unique perspective and service model to meet the most mentally ill, unhoused, cognitively disabled claimants where they are by providing onsite services with offices in homeless shelters and going out into the field of encampments, soup kitchens and anywhere that we need to in order to make our services navigating the bureaucracy of the process accessible.

Many of our clients are unstably housed and experience frequent periods of homelessness and/or institutionalization which disrupts their ability to maintain income, access medical care, and sustain housing. We have been providing assistance to individuals throughout the southeastern region of Louisiana for decades. None of our attorneys take fees for providing representation in any Social Security proceedings.

We commend SSA's efforts to simplify both the substantive language and the bureaucratic processes for claimants seeking to appeal these decisions. SLLS offers these comments to assist SSA with these goals.

**I. The Form 789 should be included with the SSA-L1411 Notice of Disability Cessation along with a Prepaid Postage and Pre-addressed return envelope to reduce SSA administrative burden**

The current Disability Cessation Notices sent by SSA do not include the appeal form. Instead, SSA provides these instructions:

You must ask for an appeal in writing. Please use our “Request for Reconsideration - Disability Cessation.” form, SSA-789. You can go to our website at <https://www.ssa.gov/forms> to locate this form. Or, you can submit your appeal request online at [www.ssa.gov/disability/appeal](https://www.ssa.gov/disability/appeal). You can also contact us to request the form or if you need help filling out the form.<sup>1</sup>

Failing to provide the form results in claimants coming to our office often missing the window to request SBC and, at times, missing their appeal deadline altogether. The burden on the claimants is substantial. By definition, these claimants were living on fixed incomes before their SSA income ceased. As such, they often rely upon free cell phones with limited minutes and do not have meaningful access to the internet, computers, and printers.

Often, libraries are seen as the solution to this problem, but in our experience, that option remains impractical for most. First, for many, technology remains a barrier, and asking them to retrieve the form online is not practical. Second, libraries generally still charge for their printing services. Third, transportation to a library is another barrier. The transportation problem is exacerbated for claimants living in rural and suburban areas throughout Louisiana. Fourth, if successful at the library, claimants must then secure the transportation and funds to travel to a post office and mail off the 789 form to SSA.

Another common alternative would be for individuals to contact SSA directly in person or by phone to appeal. In our experience, both options are time-consuming and labor-intensive for both SSA and the appellant. The appellant will either have a long wait time on their phones, which generally have limited minutes, or they will again need to face the transportation issue to come to their nearest SSA office. In Louisiana, our SSA offices are located within our population centers, which presents a barrier for individuals living in suburban and rural areas. From SSA's perspective, instead of a form assisting individuals, SSA must dedicate manpower to assisting individuals' appeals, which adds to the already long wait times for in-person and telephone services from SSA.

SLLS recommends including the SSA Form 789 with the SSA-L1411 Notice of Disability Cessation and a prepaid and addressed return envelope to reduce SSA administrative burden. By including the form with a pre-filled out and prepaid postage envelope, SSA will significantly reduce the manpower currently dedicated to assisting claimants submit appeals by phone and in person. For claimants, SSA would remove the barriers discussed and vastly improve the efficiency of the appeal process. When combined with our other suggestions, we think that the efficiency of the appeal process would greatly increase.

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<sup>1</sup> Form SSA-L1411 (07-2013) EF (07-2013)

## **II. SSA pre fill the included 789 form with information to assist claimants and SSA staff processing appeals**

SSA can reduce the administrative burden by pre-populating information on the 789 forms. Of importance, SSA should clearly identify for claimants the benefits being ceased. By doing so, Claimants would correctly appeal the benefits being terminated instead of mistakenly checking incorrect boxes on their forms which requires SSA staff to dedicate resources for followup. As representatives, we have seen that these kinds of administrative errors take years to resolve.

Currently, claimants must go to SSA's website, locate the form and then correctly complete a blank form. Claimants must review the "Type of Benefit" section and correctly choose among the options. Prefilling this box would not harm claimants and improve efficiency for SSA. The SSA 789 is a form *exclusively* for claimants who are receiving a medical cessation. The medical standard for Title II and Title XVII are identical for adults, so there is no need for a duplicative request to identify which benefit type is appealed. In our experience, claimants often do not understand the difference between whether they receive title II and title XVII.

## **III. SSA Should expand the use of checkboxes and directed short answer responses on SSA Form 789 to increase administrative efficiency**

SSA has taken the lead by incorporating check boxes that simplify completing Form 789 for claimants requesting reconsideration. In that spirit, SLLS recommends expanding upon that practice to include other vital information SSA needs.

As currently constructed, Form 789 first offers claimants checkboxes to select the type of benefit(s) they are appealing. The form then requires the claimant to write out the reasons for: 1) why they disagree with the decision, and 2) if the appeal was filed late, to provide good cause. Next, the form asks the claimant to write out any additional information they can provide to SSA relevant to the appeal. SSA then provides its final checkbox option, which asks the claimant to decide whether to appear in person for their hearing or waive that right. The claimant can also check a box to indicate they need an interpreter, with a fill-in-the-blank box for the spoken language.

SLLS recommends that SSA increase the use of checkboxes to guide better claimants seeking reconsideration. Specifically, SLLS would add the following checkboxes to guides claimants through to indicate the basis for their appeal and the basis for good cause:

- ☐ I am still disabled because (please check all that apply):
  - ☐ I am still disabled and cannot engage in substantial gainful activity
  - ☐ I have not experienced medical improvement
  - ☐ My conditions have worsened and/or I have new conditions to report
- ☐ My Appeal was filed late and there was good cause because (please check all that apply):

- ☐ I received my letter of appeal on \_\_\_\_\_ (date you received the appeal) which did not leave me enough time to timely appeal
- ☐ I called and could not reach staff on the phone
- ☐ I could not reach a SSA office
- ☐ My disability and/or medical conditions interfered with my ability to timely file this appeal and I need an accommodation
- ☐ The appeal was not sent to my current address
- ☐ I am unstably housed

Again, the 789 form then asks the claimant to write out any additional information they can provide to SSA relevant to the appeal. SLLS recommends SSA including some of the elements from the SSA 3341 - Disability Report - Appeal directly into the 789 form for claimants to tell SSA about their medical providers and others with information regarding their condition. Rather than asking claimants to write down the information in a blank space, SSA can guide the claimants answers as follows:

- ☐ I have information to give SSA regarding my claim:

Name of facility or provider	conditions for which I was treated	dates of treatment
my doctor:  Address/phone:		
my specialist :  Address/phone:		
hospital/er:		
urgent care clinic :  Address/phone:		
caseworker or counselor:  Address/ phone:		
pharmacy :  Address/ phone:		

other person who knows me and about my conditions :  Check if <input type="checkbox"/> You would like them to provide testimony on my conditions at my hearing		
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Again, the following is being offered as an illustrative concept of how SSA could improve the 789 form. Regardless of the final design and language, SLLS recommends using checkboxes and short answer blanks rather than the open ended blank space currently employed in these sections of the 789. Checkboxes that SSA already utilizes, similar to its SSA 3441, would be valuable in guiding the majority of claimants. This simple change to a checkbox system like the one suggested below could mean the difference between a successful and unsuccessful CDR appeal, a lifeline of benefits and income and stable housing for our clients.

**IV. SSA Form 789 should have the same language as SSA Form 773 to fully inform claimants of their hearing rights.**

SSA 789 gives a claimant the option to appear at a hearing or decline. SSA Form 773 also provides claimants the option to appear at their hearing or decline that right. However, SSA Form 773 includes the language in relevant part:

I understand that a hearing will give me an opportunity to present witnesses and explain in detail to the disability hearing officer, who will decide my case, the reasons why my disability benefits should not end. I understand that this opportunity to be seen and heard could be effective in explaining the facts in my case, since the disability hearing officer would give me an opportunity to present and question witnesses and explain how my impairments prevent me from working and restrict my activities. I have been given an explanation of my right to representation, including representation at a hearing by an attorney or other person of my choice. Although the above has been explained to me, I do not want to appear at a disability hearing, or have someone represent me at a disability hearing. I prefer to have the disability hearing officer decide my case on the evidence of record plus any evidence which I may submit or which may be obtained by the Social Security Administration. I have been advised that if I change my mind, I can request a hearing prior to the writing of a decision in my case. In this event, I can make the request with any Social Security office.

In its current version, SSA form 789 has no comparable language fully informing claimants of the benefits that come with appear for their hearing. Before asking claimants to waive such an

important right, SSA should fully inform them on SSA form 789 just as they do on SSA form 773.

**V. SLLS agrees with commentors suggesting the inclusion of a selection on the 789 form which allows beneficiaries to elect for Statutory Benefit Continuation (SBC).**

As noted by other commentators, The SSA-789 in its current form omits language regarding the beneficiary's Statutory Benefit Continuation (SBC) election. Congress amended the Social Security Act, setting forth due process protections for Title II and Title XVI medical cessation determinations, allowing beneficiaries the option of continuing their cash and health insurance benefits pending the outcome of their appeal. Social Security Act §§223(g), 1631(a)(7); see also 20 CFR §§ 404.1597a, 416.996.

Currently, beneficiaries seeking SBC must complete a separate form, the SSA-795 Statement of Claimant or Other Person. However, SSA 795 forms are initially blank. To get a filled out form, claimants must contact SSA to generate a SSA 795 tailored to a SBC request. By incorporating and pre completing SBC language into the 789 form, SSA would not have to individually advise and tailor each SBC request taken in person or over the phone. SLLS agrees with other commentators that consolidating the forms improves agency efficiency in processing appeals and SBC elections.

In order to comply with Congress' due process requirements, the current SSA process involves Staff and claimants discussing appeal rights and waivers before generating individually tailored 795 forms. By comparison, the current SSA Form 773 fully lays out the critical difference between appearing in person or waiving that right in writing for beneficiaries. Doing so allows beneficiaries to see all of their options clearly while saving SSA staff time and resources. Applying this rationale to the SBC election, the 789 form can explain to beneficiaries that they may continue to receive benefits, but they run the risk of recoupment should they lose their appeal. It also satisfies the requirement that the SBC be in writing while ensuring the necessary language is included and that most responses are readable to SSA employees. With this option all of the substantive due process rights afforded by Congress can be fully and clearly explained to claimants while saving SSA time and resources.

**VI. SLLS recommends the creation of an appeal form for individuals who are banned from SSA Offices that is sent with the notice.**

When an individual is banned from SSA office, the current CFRs require an appeal to be submitted in writing within 60 days of the date on the notice.<sup>2</sup> Without any guidance, the banned individual must clearly state the reasons to reconsider the decision and include any supporting documentation.<sup>3</sup> If sustained, the individual must wait 3 years for the opportunity to request another review of the decision.<sup>4</sup> For those that appeal, the duration is even longer because it ban

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<sup>2</sup>20 C.F.R. § 422.905

<sup>3</sup> *Id.*

<sup>4</sup> 20 C.F.R. § 422.906

runs during the pendency of the appeal<sup>5</sup> and the three year cycle runs beginning at the date of the appeal decision.<sup>6</sup> As indicated in the proposed request, currently:

There is no printed form for this request; rather, restricted individuals create their own written statement of appeal, and submit it to a sole decision-maker in the regional office of the region where the restriction originated. The individuals may also provide additional documentation to support their appeal.<sup>7</sup>

Under this background, SLLS recommends that SSA provide individuals who are banned from SSA with an appeal form specific to the ban. Creation of such a form would streamline the responses they receive from appellants, ensure all identifying information is included, and provide clear instructions to appellants. SLLS recommends including the appeal form with the written notice of banning. SLLS further recommends pre-filling the appeal form with the appellant's identifying information to ensure readability and identify where the appeal should be sent. With the window to appeal every three years, SLLS recommends that SSA send notices with the appeal form to banned appellants, notifying them that they can appeal that decision again.

## **VII. All Updates to Forms should be written with clear and simple language**

Claimants utilising SSA forms are facing incredible significant changes to their life. Whether their benefits are being stopped or they are being told they can no longer come to an SSA office, in both situations these claimants are having major changes imposed upon them by SSA. SSA should do everything possible to ensure that beneficiaries understand their rights and are afforded the opportunity to appeal these decisions.

As currently constructed, the phrasing of the request for information is all one paragraph that contains a confusing sentence structure to some:

I DO NOT AGREE WITH THE DETERMINATION TO STOP DISABILITY BENEFITS AND I REQUEST RECONSIDERATION. My reasons are (reasons should relate to the basis for stopping disability benefits and be as specific as possible): NOTE: If the notice of the determination on your claim is dated more than 65 days ago, include your reason for not making this request earlier. Include the date on which you received the notice.<sup>8</sup>

Presenting information at this ready level presents a barrier for many of the claimants we provide services to. SLLS suggests reviewing SSA materials to determine their readability and reading levels to ensure they are as accessible. When the following passage was reviewed by Microsoft Word's Readability Statistics, the program found the Flesch Reading Ease 40.0 and a Flesch-Kincaid Grade Level was 13.3. For many claimants, reading levels these high will present a barrier to understanding.

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<sup>5</sup> 20 C.F.R. § 422.905

<sup>6</sup> 20 C.F.R. § 422.906

<sup>7</sup> Agency Information Collection Activities: Proposed Request, 90 FR 9488-01

<sup>8</sup> Form SSA-789 (06-2024)

As direct service providers, we know that many beneficiaries struggle with literacy, comprehension and/or executive functioning due to a variety of health factors. We have assisted many beneficiaries in both these situations. For some, by the time they reach our office it is too late to elect SBC and, even worse, too late to appeal the disability cessation. Providing information to beneficiaries in clear and simple language creates the opportunity for many individuals to advocate for themselves by timely filing appeals and electing SBC when desired.

## **VIII. Conclusion**

The proposed changes present an opportunity for SSA to assist individuals appealing their decision while improving the overall administrative efficiency. Thank you for considering our comments. If any questions or concerns arise regarding this submission, please contact us at [sreed@slls.org](mailto:sreed@slls.org).

Sincerely,

*Steven Reed*

Steven Reed  
Staff Attorney

McKayla Smith  
Attorney

David Williams  
Litigation Director