

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

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Executive Director
Barbara Silverstone

March 12, 2019

Nancy Berryhill
Acting Commissioner
Social Security Administration
6401 Security Boulevard
Baltimore, MD 21235-6401

Submitted on www.regulations.gov

Re: Agency Information Collection Activities: Proposed Request and Comment Request, 84 Fed. Reg. 4597 (February 15, 2019), Docket ID Number [SSA-2019-0007]

Dear Acting Commissioner Berryhill:

These comments are submitted on behalf of the National Organization of Social Security Claimants' Representatives (NOSSCR). NOSSCR is a specialized bar association for attorneys and advocates who represent Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) claimants throughout the adjudication process. Since 1979, NOSSCR has been providing continuing legal education to its thousands of members, and public policy advocacy on behalf of its members and the people with disabilities they represent. NOSSCR's mission is to advocate for improvements in Social Security disability programs and to ensure that individuals with disabilities applying for SSDI and SSI benefits have access to highly qualified representation and receive fair decisions.

Thank you for the opportunity to again comment on the revised Form SSA-1696, "Appointment of Representative," which was originally published on July 10, 2018 at 83 Fed. Reg. 31987.

NOSSCR appreciates SSA's incorporation of many of our comments and suggestions that were submitted in response to the original publication of the revised SSA-1696. However, we have the following suggestions for improving the revised Appointment of Representative form.

[Instructions for Completing Form SSA-1696](#)

Appointing a Representative

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The proposed instructions in this section are incomplete, as they do not explain who must/may complete Section 6 (“Claim Type”). We suggest adding the following language: “Section 6 may be completed by either you¹ or your representative.”

We also reiterate our position that only the representative should be allowed to complete Section 4 (“Representative’s Information”) of the SSA-1696 to avoid any mistakes in the information provided, and, more importantly, to ensure that the representative is aware of the appointment. Because the applicable regulations (20 CFR §§ 404.1707(b) and 416.1507(b)) only require non-attorney representatives to sign the notice of appointment, the claimant could appoint an attorney representative without his/her knowledge, as the attorney’s signature would not be required on this form. Having only the representative complete Section 4 is also consistent with the instructions in this section and on the last page of the revised form that Section 7 (“Fee Arrangement”) be completed only by the representative.

NOSSCR again recommends adding instructions on how and where this completed form must be submitted to the second to last sentence of this section (e.g., “You or your representative must submit the completed form to us by [insert how here] at [insert where here] before we will recognize the representative.”), as opposed to merely stating where not to submit this form (“Do not file this form with your local State Disability Determination Service office.”), which we believe will cause more confusion than clarity.

Section 3 – Principle [sic] Representative

The title of this section should be changed to “**Principal Representative**” to be grammatically correct.

Form SSA-1696 (XX-20XX) UF - Claimant’s Appointment of a Representative

Section 3 – Principal Representative

To avoid any confusion on the claimant’s part, who the instructions require must complete this section of the form, NOSSCR suggests adding language to the heading of this section to signal to the claimant that this section should only be completed if applicable, so it reads “**Section 3 – Principal Representative** (*Completed by claimant **ONLY WHEN APPLICABLE***).”

Instructions for Completing Form SSA-1696-SUP1

NOSSCR appreciates SSA’s separation of the revocation form (and the withdrawal form) from the Appointment of Representative form altogether.

General Information About This Form

¹ In the heading preceding the “General Information About This Form” section, SSA explains that it intends for the word “you” throughout this form to refer to “the claimant, beneficiary, auxiliary or spouse” (herein “claimant”).

We are concerned about the inclusion of the second sentence in the second/last bullet point in this section, which states that “Providing misleading or false evidence on this form or your application, or withholding or delaying giving us evidence, could lead to possible criminal charges or administrative sanctions against you or your representative.” Since the claimant is the intended audience for this form², we are concerned that including this sentence on the revocation form, which is completely unnecessary and unrelated to the purpose and use of this form, may have a chilling effect on the claimant’s right to revoke a previously appointed representative’s authority out of fear of “possible criminal charges or administrative sanctions.” As such, NOSSCR recommends removing that sentence from this section altogether.

There should also be language instructing the claimant to send a copy of the revocation form to the representative or, if appropriate, an explanation that SSA will do so.

Instructions for Completing Form SSA-1696-SUP2

General Information About This Form

In the first sentence of the first bullet point of this section, the language should be changed to explain that the representative may use this form to end “your” representation, as the instructions explain that “*In this document, ‘you’ means the representative.*” Accordingly, the instructions in the second sentence of the second bullet point should also be changed to reflect that the intended audience of this form is the representative, not the claimant. Alternatively, we suggest removing this sentence entirely, as it is unnecessary, as explained in our comments to Form SSA-1696-SUP1.

Withdrawal of a Representative

SSA’s recently revised Rules of Conduct and Standards of Responsibility for Appointed Representatives, effective August 1, 2018, specifically 20 CFR §§ 404.1740(b)(3)(iv) and 416.1540(b)(3)(iv), explain that a representative should only withdraw from a claim when doing so will not “disrupt the processing or adjudication of a claim and... provides the claimant adequate time to find new representative, if desired...” unless a hearing has been scheduled, at which time the representative “should not withdraw... unless the representative can show that a withdrawal is necessary due to extraordinary circumstances, as [SSA] determine[s] on a case-by-case basis.” Because of these ethical restrictions on when a representative should withdraw, NOSSCR strongly recommends including the exact regulatory text of the above-cited regulations in this section of the withdrawal form.

Form SSA-1696-SUP2 (XX-20XX) UF – Representative’s Withdrawal of Acceptance of an Appointment

NOSSCR suggests moving the “I am withdrawing from this appointment.” section from the “Claimant’s Information” section to the bottom of the “Representative’s Information” section, along with the signature and date sections, which should be changed from “Claimant’s Signature” to “Representative’s Signature.”

² “*In this document, ‘you’ means the claimant, beneficiary, auxiliary or spouse.*”

We also recommend adding language to this form instructing the representative to send a copy of the withdrawal form to the claimant or, if appropriate, an explanation that SSA will do so.

Conclusion

NOSSCR appreciates the opportunity to comment on the proposed revisions to the SSA-1696, SSA-1696-SUP1, and SSA-1696-SUP2 forms.

Thank you for considering our comments.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Barbara Silverstone', with a stylized flourish at the end.

Barbara Silverstone
Executive Director