



**People With Disabilities Foundation**

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Social Security Administration  
Office of Legislation and Congressional Affairs  
Attn: Reports Clearance Director  
3100 West High Rise  
6401 Security Blvd.  
Baltimore, MD 21235

Re: Social Security Administration (SSA) Docket SSA-2016-0032, Agency  
Information Collection Activities: Proposed Request and Comment Request

Dear Reports Clearance Director:

Thank you for the opportunity to comment on the SSA information collection activities included in this docket.

People With Disabilities Foundation (PWDF) is a § 501(c)(3) nonprofit agency with expertise in medical (psychiatric and/or developmental)-legal issues and bases these comments on its 16-year history of providing legal representation for Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) issues for people with psychiatric and/or developmental disabilities. In addition to being PWDF's Legal Director, I am also a former Senior Attorney for the SSA.

These comments are provided in response to SSA Docket SSA-2016-0032, Agency Information Collection Activities: Proposed Request and Comment Request. PWDF has comments regarding SSA Form 9000/iAccommodate, "Request for Accommodation in Communication Method."

***Form SSA 9000/iAccommodate, Request for Accommodation in Communication Method***, enables disabled or impaired Social Security applicants, beneficiaries,

recipients, and representative payees who would like the SSA to communicate with them in a method that differs from the designated methods of communication the SSA makes available.

The SSA's notice in the Federal Register about this information request states that the SSA allows individuals to choose one of seven alternative methods of communication:<sup>1</sup>

- Standard print notice by first-class mail
- Standard print mail with a follow-up telephone call
- Certified mail
- Braille
- Microsoft Word file on data CD
- Large print (18-point font) or
- Audio CD.

The notice states that individuals who request a method not on this list do so through Form SSA-9000 and that the SSA collects this information either through an in-person interview or a telephone interview, then subsequently enters the data into SSA's iAccommodate Intranet screens.

The wording in this notice "SSA allows [individuals] to choose..."<sup>2</sup> implies that all people with communication impairments may easily select one of the accommodations from the list, regardless of the type of impairment. We note, however, that the SSA's Program Operations Manual System (POMS) states that these accommodations for communication are only available as a standard accommodation to individuals who are blind or visually impaired,<sup>3</sup> through a Special Notice Option (SNO). In other words, the SSA still does not appear to have a list of standard reasonable accommodations related to communications for people with psychiatric and/or

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<sup>1</sup> 81 Fed. Reg. 46752, 46754 (Jul. 18, 2016).

<sup>2</sup> *Id.*

<sup>3</sup> Social Security Administration, Program Operations Manual System (POMS), "GN 00211.001 Section 504 of the Rehabilitation Act of 1973: Standard and Non Standard Accommodations," available at <https://secure.ssa.gov/apps10/poms.nsf/lnx/0200211001> (last visited Sept. 13, 2016).

developmental disabilities that it makes available to its employees who communicate with the public or to the individuals who need the accommodations.<sup>4</sup>

PWDF has advocated for people with psychiatric and/or developmental disabilities for 16 years. As part of this advocacy, PWDF successfully settled two consolidated lawsuits<sup>5</sup> with the SSA that resulted in the SSA's provision of reasonable accommodations to two PWDF clients who have a combination of mental, cognitive, intellectual, and/or developmental disabilities. The substance of this litigation was to ensure that the SSA met its obligations to provide these plaintiffs with equal (meaningful) access to Social Security programs by communicating effectively with them, as required by Section 504 of the Rehabilitation Act of 1973 (Section 504). Among other things, these reasonable accommodations included training for designated SSA claims representatives about the plaintiffs' impairments and how best to communicate with them given those impairments. The SSA also agreed to provide audio CDs of SSA notices in addition to the standard written notices.

Since this settlement, PWDF has written on numerous occasions<sup>6</sup> about the need for the SSA to make reasonable accommodations similar to those obtained for Mr. Davis

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<sup>4</sup> The SSA's website lists these alternative methods of communication as being available to people who are blind or visually impaired. See Social Security Administration, *Special Notice Option For The Blind Or Visually Impaired*, available at <https://www.ssa.gov/people/blind/> (last visited September 14, 2016). The website still does not state that these accommodations are available to all individuals who have any kind of impairment that affects communication. For disabilities and impairments other than visual or hearing, the SSA does not post online a list of standard accommodations available nationwide. On its website, the SSA requires the person requesting the accommodation to call the SSA's 800 phone number, visit an SSA office, or call or write to the SSA office where the person would like to receive the accommodation. See Social Security Administration, *Accessibility Help*, available at [https://www.ssa.gov/accessibility/504\\_faq.html](https://www.ssa.gov/accessibility/504_faq.html) (last visited Sept. 16, 2016).

<sup>5</sup> *Davis v. Astrue*, Case 3:06-cv-06108 EMC (N.D. Cal. 2012) and *Doe v. Astrue*, Case No. 3:09-CV-980 EMC (N.D. Cal. 2012).

<sup>6</sup> See, e.g., regulations.gov, *Comments on the Social Security Administration (SSA) Notice: Agency Proposed Business Process Vision Under the Rehabilitation Act of 1973*, two comments from Bruce, Steven, available at <https://www.regulations.gov/document?D=SSA-2013-0042-0003> and <https://www.regulations.gov/document?D=SSA-2013-0042-0007> (last visited Sept. 13, 2016). See also People With Disabilities Foundation, "PWDF Urges the Social Security Administration to Specify and Implement Reasonable Accommodations for Individuals with Mental and/or Developmental Disabilities to Ensure Effective Communication" e-newsletter Vol. 19 (Summer 2014) available at [http://pwdf.org/enews/v19\\_SSA%20RA%209-19-14.html](http://pwdf.org/enews/v19_SSA%20RA%209-19-14.html) (last visited Sept. 13, 2016); "PWDF Urges the Social Security Administration to Implement a *Davis-Doe* Reasonable Accommodation as a Permanent, Nationwide Process" e-newsletter Vol. 24 (Winter 2016) available at <http://www.pwdf.org/implement-davis-doe-reasonable-accomodation/> (last visited Sept. 13, 2016).

and Mr. Doe available nationwide for people with psychiatric and/or developmental disabilities. We have noted that the SSA takes a one-size-fits-all approach to its disability programs that does not accommodate communication deficits. We have noted that the potential magnitude of people who may require such accommodations is huge: SSA data indicate that over 41% of beneficiaries (over 5.3 million people) who receive SSDI and/or SSI have mental disabilities.<sup>7</sup> The number of individuals with communication deficits who may benefit from standardizing these accommodations could be much greater given that SSA makes accommodations available not only to beneficiaries, but also to applicants, recipients, and representative payees.

We have also noted that the SSA employees who communicate with the public or who work on beneficiaries' work or medical continuing eligibility reviews have information gaps in that they have no medical training and may not even know what impairment(s) a given individual has. Although the codes for disorders are available in the SSA computer system, the SSA representatives do not routinely look at them, or if they do, there are no explanations of the disorders represented by the codes.<sup>8</sup> Since the SSA's policy is to provide reasonable accommodations only when individuals request them,<sup>9</sup> the SSA representatives' lack of information and understanding about the impairment creates additional barriers for people who need accommodations yet have difficulty obtaining them because of the nature of their impairments. If this were not a problem, PWDF would not have spent 6 years litigating it with the SSA.

For example, when a PWDF client who received disability benefits was talking with an SSA representative at an SSA field office, the client told the SSA representative that he had received a \$5,000 inheritance. The SSA representative told him to sign an attestation about this, so he did. The SSA then immediately terminated his SSI benefits based on being over the \$2,000 resource limits. Due to his disabilities (autism spectrum

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<sup>7</sup> Social Security Administration, "Annual Statistical Report on the Social Security Disability Insurance Program, 2014" Table 69, p. 170-171, available at [https://www.ssa.gov/policy/docs/statcomps/di\\_ast/2014/sect05.html#table69](https://www.ssa.gov/policy/docs/statcomps/di_ast/2014/sect05.html#table69) (last visited Sept. 14, 2016).

<sup>8</sup> For example, an SSA supervisor spent more than 12 months doing a work review of a PWDF client and never knew of the beneficiary's disability (schizophrenia). See *Davis v. Astrue*, Case 3:06-cv-06108 EMC (N.D. Cal. 2012).

<sup>9</sup> Section 504 requires the reasonable accommodation be provided if requested or if the disability is known, which is always the case once someone has applied to the SSA for disability benefits.

disorder, among others), a characteristic of this client is that he readily submits to authority, so he signed the attestation because the SSA representative told him to. He did not know what the attestation was or the consequence of signing it. The inheritance had been received years before, so it was irrelevant to the current situation. The SSA employee(s) who spoke with him did not communicate effectively with him in order to ascertain the truth and correctly analyze his benefits. The prompt termination of his benefits was discrimination under Section 504. Had the SSA employees been trained to look at the code relating to his disability and seek advice about the impairments, this problem may have been averted.

PWDF urges the SSA to develop processes that will make it easier for people with psychiatric and/or developmental disabilities to request and receive reasonable accommodations related to communications so that they have equal access to Social Security programs. First and foremost, the SSA should develop a list of standard accommodations for communication available nationwide to all individuals who need them, rather than limiting them to people who are blind or visually impaired. The process for requesting these accommodations should be such they are easily given at field and hearing offices, not requiring special approval by the SSA Center for Section 504 Compliance.

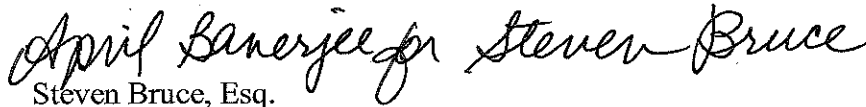
This list should include those accommodations that are the most helpful for people with mental, cognitive, intellectual, and/or developmental disabilities, especially those with communication deficits. These could include those the SSA mentioned in its Section 504 plan for people with cognitive, learning, psychological and/or emotional disabilities, such as standard print mail with a follow-up telephone call or an audio CD along with a standard print notice.<sup>10</sup> The SSA may be able to identify additional communications accommodations for people with these disabilities by searching data collected by its Center for Section 504 Compliance and other reputable sources.

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<sup>10</sup> *Social Security Administration, Proposed Section 504 Business Process Vision to Provide Individuals with Disability Meaningful Access to Social Security Programs and Activities, Ver. 3.1, App. D, "Implementing Section 504 and Interviewing Procedures."*

This list of standard accommodations should be published in prominent locations, e.g., in the SSA field and hearing offices and on the SSA's website, so that the SSA employees who communicate with the public and the applicants, beneficiaries, recipients, and representative payees themselves easily know what options are available. Given that roughly 41% of beneficiaries who receive SSDI and/or SSI have mental disabilities, the SSA should train all employees who communicate with the public or who work on beneficiaries' work or medical continuing eligibility reviews on how to offer and implement these accommodations. Additionally, the SSA employees should always consider the claimants' disorders by checking the information already available to them, i.e., the codes in the SSA computer system.

Sincerely,



Steven Bruce, Esq.

Legal Director

People With Disabilities Foundation

Cc: Office of Management and Budget, Desk Officer for SSA