

August 2, 2021

Royce B. Min  
Office of the General Counsel  
Social Security Administration  
6401 Security Blvd., Room 2400  
Baltimore, MD 21235

Dear Mr. Min:

We are reaching out on behalf of several national and state disability organizations, including the National Disability Rights Network (NDRN), the American Council of the Blind (ACB), and Justice in Aging. Organizations like ours, and others, advocate for the rights of millions of Americans with disabilities who interact with the Social Security Administration (SSA) on a regular basis, in addition to receiving benefits such as SSI, SSDI, and Survivor's Benefits.

We write to you to express concern over a new policy that is scheduled to go into effect on August 14, 2021, concerning individuals' Special Notice Option (SNO). We were notified that individuals received an online message this summer that states, "If you previously elected a Special Notice Option (SNO), you will no longer receive notices in SNO format, if the notice is available online. If you wish to continue receiving your SNO format, you will need to set your mySSA preferences." Examples of SNO include accessible formats for persons with disabilities such as braille, large print, or CD. The announcement of this new policy is concerning for two reasons.

First, according to the account of many benefit recipients, the new policy was not announced by mail, the traditional form of communication used by SSA and other government agencies. A SSA statement reported that a letter was sent out to individuals during the summer of 2021. However, anecdotal evidence demonstrates that such an announcement did not go out through traditional modes of communication. Instead, the message was sent through the mySSA portal. This made it easy for the message to be missed by many SSA recipients. The mySSA portal is not the primary form of communication utilized by many Social Security recipients; family members may have helped establish accounts to maneuver through the process. These same individuals are less likely to respond to emails. Additionally, a mySSA online account is not mandatory; many people have not set-up an online account. This population likely has not been informed about the change in any way and obviously cannot go online to make a change to their preferences. SSA should not force those who do not want to or cannot use an online system. As a result, it is imperative that all SSA announcements go out through traditional U.S. mail services.

Second, a requirement that individuals must proactively take steps to retain accommodations they already receive is antithetical to accessibility and information access. If individuals currently receive their documents in an alternative format, they must have requested such an accommodation for a reason. It would make more sense to ask a recipient to sign in online to opt out of the accommodation, not automatically opt them out unless they opt in again. Many people struggle to perform tasks online for numerous reasons. They may have a disability that makes using a computer difficult, and they may lack familiarity with using computers or lack internet access. Requiring such recipients to go online to ask for an accommodation they already have is burdensome and inappropriate. And, as already explained, if they missed the initial notification that they need to do so, they may simply stop receiving accessible documents without knowing why. As a result, this quickly approaching deadline is deeply problematic as it could also cause them to miss other crucial communications like a notice about a termination or a change in benefits.

Furthermore, a decision entered by the Northern District of California holds that the Social Security Administration cannot cease to provide documents in an alternative format in the way described in this new policy. In *American Council of the Blind (ACB) v. Astrue*,<sup>1</sup> the court found that beneficiaries who are blind or visually impaired must receive critical communications about their benefits in an accessible, alternative format if they request such an accommodation. People who heretofore received communications via a Special Notice Option have already requested and received this accommodation. The judge found that a denial of such an accommodation constitutes a violation of federal anti-discrimination law.

Additionally, the court held that after April 16, 2010, SSA may not reduce or terminate benefits unless the beneficiary was first provided with the notice via the accessible method they requested. SSA must continue to provide communications in the original accessible format requested, or no further action by the administration can be taken. When the ruling went into effect in 2010, the judge stated that the agency must comply with the ruling in “good faith.” By failing to send out communications by mail in an alternative format alerting individuals to the new policy that is to take effect on August 14, 2021, the Social Security Administration is not acting in good faith. A message sent through the mySSA system does not fulfill SSA’s obligations for providing accessible communications through a requested accessible format.

Thank you for listening to the concerns of our organizations. With the onset date of the new policy coming up shortly, we would like a response to this letter within the next week by August 9, 2021. We ask that you rescind this policy and continue to provide SNO to those that requested it.

Please direct your communications to Claire Stanley at [claire.stanley@ndrn.org](mailto:claire.stanley@ndrn.org) or (202) 567-3501, and Clark Rachfal at [crachfal@acb.org](mailto:crachfal@acb.org) or (202) 467-5081.

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<sup>1</sup> 3:05-CV-04696 (N.D. Cal.), <https://www.clearinghouse.net/chDocs/public/DR-CA-0003-0003.pdf>.

Sincerely,

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