



Submitted via www.regulations.gov

Re: Notice of Proposed Rulemaking on Hearings Held by Administrative Appeals Judges of the Appeals Council, Docket No. SSA-2017-0073

These comments are submitted on behalf of the over 1.5 million supporters of Social Security Works and over 60 million Social Security beneficiaries. Social Security Works strongly opposes the proposed rule regarding allowing Administrative Appeals Judges (AAJ) from the Appeals Council to conduct initial disability hearings.

It is imperative that the American people receive due process when having the Social Security Administration (SSA) determine whether they are so severely disabled that they cannot support themselves through work and instead qualify for disability benefits. This proposed rule denies them that due process and should be rescinded.

While we support SSA's efforts to issue accurate, timely, and high-quality decisions, Administrative Appeals Judges (AAJs), currently Attorney-Examiners and Appeals Officers, from the Appeals Council, should not be substituted for ALJs, because they do not have the independence and insulation from political pressure that the Administrative Procedure Act (APA) affords ALJs.

ALJs have not only protection but specialized training that makes them the only ones to perform their functions. ALJs have gone through a lengthy competitive examination process which involves a preliminary assessment of skills and qualifications, a written examination and multiple interviews before being hired. ALJs have experience in conducting hearings and interacting with claimants and attorneys. Attorney-Examiners and Appeals Officers do not conduct hearings instead they merely review the written record and make a decision on the documents submitted. ALJs must be able to independently review copious medical records and conduct their own independent analysis of evidence.

By creating a new AAJ position, which threatens Americans' right to due process, the rule increases the likelihood of claimants being forced to appeal decisions directly to the federal district courts – and also results in greater likelihood that agency decisions will be overturned. The proposed rule alters the administrative review process, subjecting the entire administrative adjudicative process under performance appraisal control by SSA.

Hearing decision-makers are expected to be independent, impartial, and able to adjudicate fairly without fear of interference and influence from an agency. For this reason, ALJs are appointed under the APA. The newly created AAJs will not meet the same independence due to SSA's

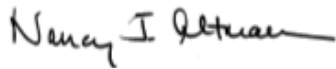
control over their performance appraisal, salary, bonus, and employment status. No rule can correct this lack of independence.

Like many of the rules we have recently seen from SSA, this one has failed to provide any technical studies or data to explain or support this fundamental change of the adjudicative process. This is particularly blatant, when the hearings backlog has been declining. While the wait time is still unacceptably long, the pending number of cases was at its lowest point in 15 years at the end of FY 2019.

Social Security's benefits are earned. Benefits from its companion program, Supplemental Security Income, go to the poorest Americans. It is essential that these vital benefits be administered impartially and fairly, free of political interference or bias. This proposed rule undermines the appearance – and likely, the actuality – of that fairness. The proposed rule should not be made final. Instead, it should be rescinded.

Thank you for your consideration of these comments on these proposed regulations.

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy J. Altman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Nancy J. Altman, President
Social Security Works