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May 7, 2021

The Honorable Andrew Saul
Commissioner
Social Security Administration
6401 Security Boulevard
Baltimore, MD 21235

RE: Final Rule, “Hearings Held by Administrative Appeals Judges of the Appeals Council” (85 Fed. Reg. 73138; effective Dec. 16, 2020)

Dear Commissioner Saul:

We urge you to immediately initiate rulemaking to revoke the Social Security Administration (SSA) Final Rule, “Hearings Held by Administrative Appeals Judges of the Appeals Council” (85 Fed. Reg. 73138; effective Dec. 16, 2020).

This harmful final rule allows SSA to use agency staff attorneys – rather than independent Administrative Law Judges (ALJs) – to hold hearings and issue decisions for individuals who are appealing a denial of Social Security benefits. SSA hearings play a vital role in ensuring that Americans receive the benefits they have earned: a hearing is typically the first time that a person who is applying for benefits is heard directly by a decisionmaker.

It is essential that ALJs continue to preside over SSA appeals hearings, to ensure impartial and fair adjudication of Social Security benefit claims. ALJs are independent and protected from agency interference; for example, they can only be fired for good cause, and a separate federal agency can review SSA’s discipline of ALJs. The independence of ALJs supports their ability to be impartial because it protects them from pressure by SSA to decide cases one way or the other. Consistent with the Administrative Procedure Act, SSA has long used ALJs for appeals hearings and Congress has long understood that SSA must do so.

Letter to Commissioner Saul

May 7, 2021

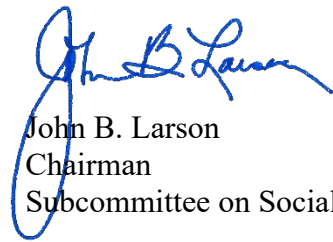
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Alarming, this rule upends decades of established procedures, by permitting SSA to use staff attorneys to hold hearings instead of ALJs. These attorneys are regular employees of SSA and are not protected from agency interference, such as pressure to uphold the agency's previous benefit rejections. As described in [comments by Democratic House and Senate Committee leaders](#), having these staff attorneys preside over hearings is a reduction in due process protections and could result in biased and unfair decisions that deny individuals access to their Social Security and SSI benefits.

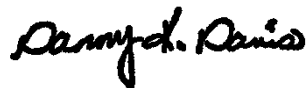
It is outrageous that you finalized this rule last December, in the middle of a pandemic that is threatening the lives and financial security of our nation's seniors, people with disabilities, and survivors who have lost loved ones. Your actions have added insult to injury for vulnerable Americans who now more than ever should be confident that SSA will pay them benefits if they are eligible and will not erode their right to be heard fairly and impartially.

We urge you to initiate immediate action to revoke this harmful and reprehensible rule.

Sincerely,

A handwritten signature in blue ink, appearing to read "John B. Larson".

John B. Larson
Chairman
Subcommittee on Social Security

A handwritten signature in black ink, appearing to read "Danny K. Davis".

Danny K. Davis
Chairman
Subcommittee on Worker and Family Support