



SOCIAL SECURITY

February 22, 2010

Kevin W. Herms
Office of Information and Regulatory Affairs, OMB
Room 10235, New Executive Office Bldg.
725 17th St. NW
Washington, D.C. 20503

Dear Mr. Herms:

The Social Security Administration (SSA) is requesting emergency clearance for form SSA-9000, the Request for Accommodation in Communication Method. Below we discuss the background for this form and the need for emergency clearance.

Background

The need for this form stems from recent legal action, *American Council of the Blind, et al v. Michael Astrue and Social Security Administration* (No. C 05-04696 WHA (N.D. Cal.)). In *American Council of the Blind*, class plaintiffs representing Social Security applicants, beneficiaries, recipients, and representative payees who are blind or visually impaired challenged the adequacy of the methods used by SSA in its notices and other communications. Prior to the district court's order of October 20, 2009 in *American Council of the Blind*, SSA had offered three modes of communications for blind and visually impaired Social Security beneficiaries: (1) a standard print notice by first-class mail; (2) a standard print notice by first-class mail with a follow-up telephone call; and (3) certified mail. In *American Council of the Blind*, the district court required SSA to begin offering two new communication methods to blind or visually impaired applicants, beneficiaries, recipients, and representative payees: Braille and Microsoft Word files (on data compact discs).

In addition, the district court ordered SSA to follow Section 504 of the Rehabilitation Act, 29 U.S.C. § 794. Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, states that "no otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity conducted by any Executive agency or by the United States Postal Service." In *Alexander v. Choate*, the Supreme Court determined that Section 504 entitles individuals with disabilities to reasonable accommodations to ensure meaningful access to agency programs.

In *American Council of the Blind*, the district court ordered SSA to implement Section 504 through 45 C.F.R. 85.51. Under 45 C.F.R. 85.51, SSA must "take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public." Further, the regulation states that SSA must "furnish appropriate

auxiliary aids where necessary to afford an individual with handicaps an equal opportunity to participate in, and enjoy the benefits of, program or activity conducted by the agency” (45 C.F.R. 85.51 (a)(1)). In accordance with the district court’s order in *American Council of the Blind*, SSA must begin processing 45 C.F.R. 85.51 accommodation requests on April 15, 2010.

Form Implementation/Need for Emergency Clearance

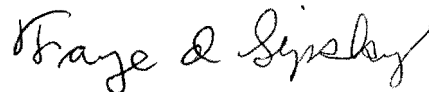
SSA has developed form SSA-9000 to gather information from blind or visually impaired individuals about the specific accommodation individuals are requesting, the nature of their impairment, and why the individuals believe their accommodation request will allow SSA to effectively communicate with them. Based on the information provided on the form, and the legal and regulatory standards under Section 504 of the Rehabilitation Act and 45 C.F.R. 85.51, SSA will determine whether it will grant or deny individuals’ requested accommodations.

Since the district court’s order in *American Council of the Blind*, over 1,000 blind or visually impaired individuals have requested accommodations under 45 C.F.R. 85.51. Before SSA can rule on these requests, it must be able to gather information from these individuals through use of the form.

To meet the court-ordered April 15, 2010 deadline, we must begin ruling on these requests in the very near future. Accordingly, we are requesting emergency clearance for this form by **Monday, March 1, 2010**. We plan to seek full clearance of the form within several months of receiving emergency clearance.

Please contact SSA’s Acting Reports Clearance Officer, Faye I. Lipsky, at 410-965-8783 or faye.lipsky@ssa.gov with any questions about this collection.

Sincerely,



Faye I. Lipsky
Acting Reports Clearance Officer
Social Security Administration