

NATIONAL ORGANIZATION OF
SOCIAL SECURITY CLAIMANTS' REPRESENTATIVES
(NOSSCR)
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August 18, 2010

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Re: Request for Comments on the Registration for Appointed Representative Services and Direct Payment Form SSA- 1699, 75 Fed. Reg. 45190 (August 2, 2010); Docket 10 SSA-2010-0047

These comments are submitted on behalf of the National Organization of Social Security Claimants' Representatives (NOSSCR).

Founded in 1979, NOSSCR is a professional association of attorneys and other advocates who represent individuals seeking Social Security disability or Supplemental Security Income (SSI) benefits. NOSSCR is a national organization with a current membership of more than 3,900 members from the private and public sections and is committed to the highest quality legal representation for claimants. NOSSCR members represent these individuals with disabilities in legal proceedings before the Social Security Administration and in federal court. Many NOSSCR members practice exclusively or almost exclusively in the area of Social Security law and represent thousands of claimants.

Comments on From SSA-1699 (2-2010)

In general, the 2-2010 version of this form is an improvement over the 11-2009 version. However, there are still some areas of concern.

Purpose of form

The purpose of this form is still not clear. It states that it is needed if the representative wants to register for direct payment of fees, or has to update the information on a previously completed form SSA-1699. In fact, it is to register all professional representatives and for representatives who seek to have online access to client's files.

1. Some professional representatives, such as attorneys who work for legal services and paralegal representatives who work for firms or legal services and are not eligible for direct payment of fees, do not charge fees or do not receive direct payment of fees, but should complete this form if its purpose is to register all appointed representatives. If it is intended to register all appointed professional representatives, then there is no reason to call it a form for "Appointed Representative Services and Direct payment."
2. The "Purpose of Form" states that it must be completed if the representative wants to register for direct payment of fees, or needs to update the information on a previously completed form 1699. However, this form is also needed to be able to register for online access to clients' folders. As explained in POMS GN 03913.025, Form SSA-1699 should be completed to "initiate access to electronic services." This should be included in the instructions on the form itself.

The phrase "direct payment of fees" is confusing. Many representatives may believe this refers to direct deposit. This form should use language consistent with other SSA publications and say that it is required for those representatives whose fees will be withheld and paid directly.

Privacy Act statement:

The Privacy Act Statement is misleading. It states: "The information you furnish on this form is voluntary. However, failure to provide the requested information will prevent you from serving as an appointed representative." This is incorrect. Failure to provide the requested information will prevent the representative from having fees withheld and paid directly, prevent SSA from having updated information, or prevent the representative from registering for online access to clients' files. But it will not prevent him/her from being the appointed representative.

Section I.

A representative who is simply updating information should enter his/her Rep ID. The instructions should then indicate whether only the changed part of the form has to be completed or whether an entire form must be completed.

Why is the home address the first address requested, or even requested at all? Although you explain that the information is needed to “check against our records,” if this registration is for a professional representative, a professional address should be requested.

Section II. We suggest that you add the word “attorney” so that the question is “Are you currently an attorney in good standing...” This would clarify that the question does not apply to non-attorney representatives.

Section III. Instead of asking for information on admission to one state, U.S. territory or U.S. federal court, this section should continue to include space for all U.S. courts, including federal district courts, in which an attorney is admitted. It is important to know why SSA is seeking this information. If the only reason is to be certain that the representative is eligible for fee withholding, then asking for one bar admission is sufficient. However, this form provides an opportunity to gather relevant information for registering attorneys, and here, it would make sense to collect information that could be useful if a disciplinary matter must be pursued. If that is an intended purpose, then all admissions should be requested. The November 2009 version contained more than enough space for an attorney to list multiple admissions. For additional clarity in the completion of this form, at the end of section III, the form should provide instructions to continue to section IV.

Section IV. The February 2010 version of this section is a great improvement over the November 2009 version.

Section V Direct Deposit. We have heard from a great many NOSSCR members that their banks do not provide them with sufficient information about the deposit for them to determine which client it is from. Although we have been told that SSA provides this information to the banks, it is essential that SSA also provide instructions to the banks explaining why this information must be provided to the representative. Without such instructions from SSA to the banks, we do not anticipate this situation being corrected. We understand that an informational sheet has been prepared and is being reviewed by the Treasury Department and we urge SSA to be sure this notice is distributed to banks as soon as possible.

The instructions for direct deposit also indicate that the representative must be the owner or co-owner of the bank account. Most associates are not owners or co-owners of the firm’s bank account, and thus could not be eligible for direct deposit under these rules. Without the recognition of firms, and payment of fees to the firms, it will be impossible for most fees to be directly deposited into the firm bank accounts.

Section VI and Section VII. These appear to be random, somewhat overlapping statements to attest to. Why are some of the statements in Section VI and others in

Section VII? Why is Section VI “attestations and questions”, while Section VII is “General Attestations?”

Finally, we understand that SSA is currently experiencing difficulty in processing the Form SSA-1699 online and we encourage resolution to this problem as soon as possible to ease the registration process.

Thank you for the opportunity to comment on Form SSA-1699.

Sincerely,

A handwritten signature in black ink that reads "Barbara Silverstone". The signature is written in a cursive style with a large, prominent initial "B".

Barbara Silverstone
Staff Attorney