

NOSSCR

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SSA Issues Changes to Rules of Conduct for Representatives

SSA issued final regulations today revising the Rules of Conduct and Standards of Responsibility for Representatives. 76 Fed. Reg. 80241 (Dec. 23, 2011). The Federal Register publication is available at <http://www.gpo.gov/fdsys/pkg/FR-2011-12-23/pdf/2011-32923.pdf>. The changes are effective in thirty days on January 23, 2012.

In September 2008, SSA published a wide-ranging notice of proposed rulemaking (NPRM) on "Revisions to Rules on Representation of Parties. 73 Fed. Reg. 51963 (Sept. 8, 2008). Today's final rules address the proposed revisions to the Rules of Conduct for representatives, which was just one part of the 2008 NPRM.

The final rules revise the "prohibited actions" in the Rules of Conduct, 20 C.F.R. §§ 404.1740(c) and 416.940(c), to include the following:

- (1) Violating any section of the Act for which a criminal or civil monetary penalty is prescribed;
- (2) Refusing to comply with any of SSA's rules or regulations;
- (3) Suggesting, assisting, or directing another person to violate SSA's rules or regulations;
- (4) Advising any claimant or beneficiary not to comply with any of SSA's rules or regulations;
- (5) Failing to comply with SSA's decision about sanctions; and
- (6) Knowingly assisting a suspended or disqualified person to provide "representational services."

The last provision, prohibiting knowing assistance to a suspended or disqualified person to provide representational services, was in the NPRM. NOSSCR commented that the proposed language might preclude a representative from taking on some or all of the suspended or disqualified representative's clients. SSA responded in the preface to the final rule and clarified that the prohibited action applied only to knowing assistance to provide "representational services." "Representational services" is now defined as:

Representational services means services performed for a claimant in connection with any claim the claimant has before us, any asserted right the claimant may have for an initial or reconsidered determination, and any decision or action by an administrative law judge or the Appeals Council.

20 C.F.R. §§ 404.1703 and 416.903. In response to comments, SSA states that a representative can employ a suspended or disqualified representative as long as the person does not provide "representational services" or exercise the authority of a representative in 20 C.F.R. §§ 404.1710 and 416.1510.

A more detailed article will appear in the January 2012 issue of the NOSSCR Social Security Forum.

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