

Notice of Decision – Unfavorable

I carefully reviewed the facts of your case and made the enclosed decision. Please read this notice and my decision.

If You Disagree With My Decision

If you disagree with my decision, you may file an appeal with the Appeals Council. This notice will explain your options, including how to file an appeal.

Special Review Procedures Under the *Padro et al. v. Astrue* Class-Action Settlement

On [*date of final approval*], the U.S. District Court for the Eastern District of New York approved a settlement in the class-action lawsuit *Padro et al. v. Astrue*. This lawsuit challenged decisions on disability claims made by certain administrative law judges.

Under the settlement agreement, my decision will be reviewed using special review procedures. These special review procedures include: (1) assigning your claim to be reviewed by a specified group of staff at the Appeals Council, (2) if your claim is returned for a new hearing and decision, it will not be assigned to me but instead will be assigned to an administrative law judge who was not involved in the *Padro et al. v. Astrue* class-action lawsuit, and (3) if you have not filed a written appeal on the 65th day following this notice, the Appeals Council will deem you to have filed a timely request for review. We call these special review procedures “*Padro* review.” We will apply these procedures unless you write and tell us you do not want *Padro* review.

How to File an Appeal

To file an appeal you or your representative must ask in writing that the Appeals Council review my decision. You may use our Request for Review form (HA-520) or write a letter. The form is available at www.socialsecurity.gov. Please put the Social Security number shown above on any appeal you file. Please also refer to the *Padro et al v. Astrue* settlement. We will assume that you want *Padro* review unless you tell us you do not. If you need help, you may file in person at any Social Security or hearing office.

Please send your request to:

**Appeals Council
Office of Disability Adjudication and Review
Padro Staff
5107 Leesburg Pike
Falls Church, VA 22041-3255**

Time Limit to File an Appeal

You must file your written appeal **within 60 days** of the date you get this notice. The Appeals Council assumes you got this notice 5 days after the date shown above unless you show you did not get it within the 5-day period.

If You Do Not File an Appeal

Under the terms of the *Padro et al. v. Astrue* settlement, if you do not file your written appeal within 60 days after you receive this notice, the Appeals Council will deem you to have filed a timely request for review. This will happen on the 65th day after the date on this notice, unless you tell us that you do not want *Padro* review.

If You Do Not Want *Padro* Review

If you do not want my decision reviewed under the special review procedures, you must write and tell the Appeals Council that you do not want *Padro* review. You can do this either with or without filing an appeal.

To file an appeal without *Padro* review, you must tell the Appeals Council that you do not want *Padro* review at the time you file the appeal. This will mean that (1) your claim may not be assigned to a specified group of staff at the Appeals Council, and (2) if your claim is returned for a new hearing and decision, it may be returned to me or to one of the other administrative law judges who were involved in the *Padro et al. v. Astrue* class-action lawsuit.

If you do not want the Appeals Council to deem you to have filed a request for review, you must send us a request in writing. You must say that you do not want *Padro* review, and also do not want to file an appeal. You must do this **within 60 days** of the date you get this notice. The time limit is the same as the time limit to file an appeal, and you should write to the Appeals Council at the same address. This will mean that the Appeals Council may not review my decision at all, and that my decision may become final.

If you tell the Appeals Council that you do not want *Padro* review, the settlement relief and limitations will not apply to you. You will have the right to appeal as if there were no class-action settlement.

What Else You May Send Us

You or your representative may send us a written statement about your case. You may also send us new evidence. You should send your written statement and any new evidence **with your appeal**. Sending your written statement and any new evidence with your appeal may help us review your case sooner.

How a Written or Deemed Appeal Works

The Appeals Council will consider your entire case. It will consider all of my decision, even the parts with which you agree. Review can make any part of my decision more or less favorable or unfavorable to you.

Under the terms of the *Padro et al. v. Astrue* settlement, we will assign your case to a specified group of staff within the Appeals Council. This staff will use the same rules for considering your case that would apply if you tell us you do not want *Padro* review. The rules the Appeals Council uses are in the Code of Federal Regulations, Title 20, Chapter III, Part 404 (Subpart J) and Part 416 (Subpart N).

The Appeals Council may:

- Deny your written or deemed appeal,
- Return your case to me if you decline *Padro* review, or, if you accept *Padro* review, return your case to another administrative law judge for a new decision,
- Issue its own decision, or
- Dismiss your case.

The Appeals Council will send you a notice telling you what it decides to do.

Under the terms of the *Padro et al. v. Astrue* settlement, if the Appeals Council returns your case for a new decision, your case will be assigned to an administrative law judge who was not involved in the *Padro et al. v. Astrue* class-action lawsuit. Any subsequent hearing will be conducted by that other administrative law judge.

If you tell us you do not want *Padro* review, and the Appeals Council returns your case for a new decision, your case may be assigned to me or to another administrative law judge who was involved in the class-action lawsuit. If the Appeals Council denies your appeal, my decision will become the final decision.

The Appeals Council May Review My Decision On Its Own

The Appeals Council may review my decision even if you do not appeal, and even if you tell us you do not want *Padro* review. They may decide to review my decision within 60 days after the date of the decision. The Appeals Council will mail you a notice of review if they decide to review my decision.

When There Is No Appeals Council Review

If you tell us you do not want *Padro* review, do not appeal, and the Appeals Council does not review my decision on its own, my decision will become final. A final decision can be changed only under special circumstances. You will not have the right to Federal court review.

[The following language will be included only if the claimant is unrepresented:]

Your Right to Representation

You may choose to have an attorney or other person help you. Many representatives do not charge a fee unless you win your appeal. Groups are available to help you find a representative or, if you qualify, to give you free legal services. Your local Social Security office has a list of groups that can help you in this process.

If you get someone to help you with your appeal, you or that person must let the Appeals Council know. If you hire someone, we must approve the fee before he or she is allowed to collect it.]

New Application

You have the right to file a new application at any time, but filing a new application is not the same as appealing this decision. If you disagree with my decision and you file a new application instead of appealing, you might lose some benefits or not qualify for benefits at all. My decision could also be used to deny a new application for benefits if the facts and issues are the same. If you disagree with my decision, you should file an appeal within 60 days.

If You Have Any Questions

We invite you to visit our website located at www.socialsecurity.gov to find answers to general questions about social security. You may also call (800) 772-1213 with questions. If you are deaf or hard of hearing, please use our TTY number (800) 325-0778.

More information about the *Padro et al. v. Astrue* settlement is available on our website located at [*website address*]. You can also contact the Urban Justice Center, the lawyers who brought the *Padro et al. v. Astrue* lawsuit, by writing to them at Urban Justice Center, *Padro* Class Counsel, 123 William Street, 16th Floor, New York, NY 10038, or calling them at (646) 459-3068.

If you have any other questions, please call, write, or visit any Social Security office. Please have this notice and decision with you. The telephone number of the local office that serves your area is [*field office phone number*]. Its address is:

[*FIELD OFFICE ADDRESS*]

EXHIBIT B (“Notice B”)

[*ALJ Name*]
Administrative Law Judge

Enclosures:

Decision Rationale

Form HA-L39 (Exhibit List)

cc: [*Representative of Record*]