

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 or your representative may submit written exceptions to the Appeals Council. “Written exceptions” are your statements explaining why you disagree with my decision. This notice will explain your options, including how to submit written exceptions and the time limits to file a civil action in Federal court.

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 (ALJs).

Under the settlement agreement, my decision may be reviewed using special review procedures. These special review procedures include: (1) deeming you to have filed general written exceptions on the date of this notice, which you can choose to withdraw or supplement, (2) assigning your claim to be reviewed by a specified group of staff at the Appeals Council, and (3) 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 ALJ who was not involved in the *Padro et al. v. Astrue* class-action lawsuit. “Deeming you to have filed general written exceptions” means that your case will be treated as if you asked the Appeals Council to review my decision.

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 Written Exceptions

Under the terms of the *Padro et al. v. Astrue* settlement, your case will be treated as if you filed “general” written exceptions on the date of this notice. You may also file “specific” written exceptions (explaining in greater detail why you disagree with my decision) within **60 days** of the date you get this notice.

If you file specific written exceptions, please put the Social Security number shown above on any written exceptions you send. 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.

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Please send your specific written exceptions to:

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

If you need help, you may file in person at any Social Security or hearing office.

Time Limit To File Specific Written Exceptions (60 Days)

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

If you need more time to file your specific written exceptions, you must file a written request with the Appeals Council. You must file the request for an extension within 60 days of the date you get this notice. If you request more than 30 days, you must explain why you need the extra time. The Appeals Council will decide whether to grant your request for more than a 30-day extension.

If You Want to Withdraw the Deemed General Written Exceptions

Under the terms of the *Padro et al. v. Astrue* settlement, your case will be treated as if you asked the Appeals Council to review my decision. If you do not want my decision to be reviewed by the Appeals Council, you may write and tell us that you want to withdraw the general written exceptions. You may do this by writing to the Appeals Council at the address given above **within 60 days** of the date you get this notice.

[The following language will be included only if the claim was remanded pursuant to Sentence 4:

You would only choose this option if you do not plan to file specific written exceptions. This means that if you write to tell us that you want to withdraw the general written exceptions, and the Appeals Council does not review my decision on its own, you may file a new civil action in Federal court. We discuss the time limits for filing a civil action below.]

[The following language will be included only if the claim was remanded pursuant to Sentence 6:

You would only choose this option if you do not plan to file specific written exceptions. This means that if you write to tell us that you want to withdraw the general written exceptions, and the Appeals Council does not review my decision on its own, you will have the right to pursue your civil action with the court. We discuss the time limits for pursuing your civil action with the court below.]

We will assume that you want the rest of *Padro* review unless you tell us you do not. This will

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mean that if you file a civil action in Federal court and your claim is returned for a new hearing and decision, it will be assigned to an ALJ who was not involved in the *Padro et al. v. Astrue* class-action lawsuit.

If You Do Not Want the *Padro* Special Review Procedures

If you do not want my decision reviewed under the special review procedures, whether you want to file written exceptions, file a new civil action, or take no action on your case, you must write to the Appeals Council at the address above and tell them that you do not want *Padro* review **within 60 days** of the date you get this notice. If you file written exceptions, you must say that you do not want *Padro* review at the time you file your exceptions.

If you tell the Appeals Council that you do not want *Padro* review, the relief and limitations of the settlement will not apply to you. This means that: (1) your deemed general exceptions will be withdrawn, (2) your claim may not be assigned to a specified group of staff at the Appeals Council, and (3) 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.

You will still have the right either to file specific written exceptions within 60 days of receiving my decision or to pursue your case through Federal district court as described below as if there were no class action settlement.

The Appeals Council May Review My Decision On Its Own

The Appeals Council may review my decision even if you do not file written exceptions. The Appeals Council will notify you within 60 days of the date of this notice if it decides to review your case.

How Written Exceptions Work

The Appeals Council will consider your entire case. It will consider all of my decision, even the parts with which you agree. The Appeals Council’s action may be 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), Part 416 (Subpart N), Part 404 (Subpart J) and Part 416 (Subpart N).

The Appeals Council may:

- Find that there is no reason to change my decision,
- Dismiss your case,
- Return your case to me if you decline *Padro* review or, if you accept *Padro* review, return your case to another ALJ for a new decision, or
- Issue its own decision.

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The Appeals Council will send you a notice telling you what it decides to do. If the Appeals Council does not change my decision, my decision will become the final decision after remand. Any future claim you file will not change a final decision on this claim if the facts and issues are the same.

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 not be assigned to me but instead will be assigned to an ALJ who was not involved in the *Padro et al. v. Astrue* class-action lawsuit. Any subsequent hearing will be conducted by that other ALJ.

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 ALJ who was involved in the class-action lawsuit. If the Appeals Council does not change my decision, my decision will become the final decision.

Filing An Action In Federal District Court

[The following language will be included only if the claim was remanded pursuant to Sentence 4:

If you withdraw the deemed general written exceptions, do not file specific written exceptions, and the Appeals Council does not review my decision on its own, my decision will become final on the 61st day following the date of this notice. After my decision becomes final, you will have 60 days to file a new civil action in Federal district court. You will lose the right to a court review if you do not file a civil action during the 60-day period starting with the day my decision becomes final. However, you can ask the Appeals Council to give you more time to file a civil action. The Appeals Council will grant your request for more time only if you can show a good reason for needing more time. We will not send you any more notices about your right to file in Federal district court.]

[The following language will be included only if the claim was remanded pursuant to Sentence 6:

If you withdraw the deemed general written exceptions, do not file specific written exceptions, and the Appeals Council does not review your case on its own, my decision and a transcript of your case record will be sent to the Office of the United States Attorney for filing with the court when required. You have the right to pursue your civil action with the court.]

New Application

You have the right to file a new application at any time, but filing a new application is not the same as filing exceptions to my decision or filing a civil action in Federal court. If you disagree with my decision and you file a new application instead of filing written exceptions or appealing to Federal court, 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 think my decision is wrong, you should file your exceptions within 60 days or file a new civil action between the 61st and 121st days after the date of this notice.

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Your Right To Representation

If you file written exceptions, you may choose to have an attorney or other person help you. Many representatives do not charge a fee unless you win. 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 with filing specific written exceptions, 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.

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*]

[*ALJ Name*]
Administrative Law Judge

Enclosures:
Decision Rationale
Form HA-L39 (Exhibit List)

cc: [*Representative of Record*]