

**Supporting Statement for Notice Regarding
Substitution of Party Upon Death of Claimant—HA-539
20 CFR 404.957(c)(4) and 416.1457(c)(4)
OMB No. 0960-0288**

A. Justification

1. Regulations of the Social Security Administration (SSA) at *20 CFR 404.957(c)(4) and 416.1457(c)(4)* provide that an Administrative Law Judge (ALJ) may dismiss a request for hearing on a pending claim of a deceased individual unless another individual makes a written request showing that he or she may be adversely affected by dismissal of the request. *Sections 205(a) and 1631(e) of the Social Security Act (the Act), as amended*, provide authority for SSA to require submission of this information before it proceeds with the claim.
2. SSA collects this information, using form HA-539, when a claimant for Social Security or Supplemental Security Income benefits dies while his or her request for a hearing is pending. The information collected establishes a written record of the request of any individual who asks to be made a substitute party for a deceased claimant, and it facilitates a decision by SSA on who, if anyone, should become a substitute party for the deceased.

The ALJ and the hearing office support staff use this information to: (1) establish the relationship of the requester to the deceased claimant; (2) determine the substituted individual's wishes regarding an oral hearing or decision on the record; and (3) admit the data into the claimant's official record as an exhibit.

3. Improved information technology that would reduce the burden is available, and the form is a candidate for conversion to electronic version as resources permit. However, since other forms with a greater volume of respondents take precedence over this collection, SSA is unsure as to when this collection will be available electronically.
4. The nature of the information being collected and the manner in which it is collected preclude duplication. There is no other collection instrument used by SSA that collects data similar to that collected here.
5. This collection does not have a significant impact on a substantial number of small businesses or other small entities.
6. If this information were not collected, individuals who may qualify for benefits under the claim of a deceased individual may be denied the right to pursue the claim on the basis of the claimant's request for a hearing. Because this

information is only collected under certain circumstances, it cannot be collected less frequently. There are no technical or legal obstacles that prevent burden reduction.

7. There are no special circumstances that would cause this information collection to be conducted in a manner that is not consistent with 5 CFR 1320.5.
8. The 60-day advance Federal Register Notice was published on December 15, 2006 at 71 FR 75607, and SSA has received no public comments. The second Notice was published on February 14, 2007, at 72 FR 7107. There have been no outside consultations with members of the public.

The first Federal Register Notice has incorrect burden data due to a miscalculation of the burden hours. The correct number of burden hours is provided in the second Federal Register Notice and below in #12.

9. SSA provides no payment or gifts to the respondents.
10. The information provided on this form is protected and held confidential in accordance with 42 U.S.C. 1306, 20 CFR 401 and 402, 5 U.S.C. 552 (Freedom of Information Act), 5 U.S.C. 552a (Privacy Act of 1974) and OMB Circular No. A-130.
11. The information collection does not contain any questions of a sensitive nature.
12. Form HA-539 will be used by approximately 4,320 respondents annually. The estimated response time is 5 minutes for a total of 360 burden hours. The total burden is reflected as burden hours, and no separate cost burden has been calculated.
13. There is no known cost burden to the respondents.
14. The annual cost to the Federal Government is approximately \$17,966. This estimate is a projection of costs for printing and distributing the form collection instrument and for collecting the information.
15. The decrease in the public reporting burden was a result of recalculating the incidence of requests from individuals who ask to be made a substitute party for a deceased claimant, based on current 2006 fiscal year statistical data.
16. The results of this information collection will not be published.
17. OMB has granted SSA an exemption from the requirement that the expiration date for OMB approval be printed on its program forms. SSA produces millions of public-use forms, many of which have a life cycle longer than that of an OMB

approval. SSA does not periodically revise and reprint its public-use forms, (e.g., on an annual basis). This exemption was granted so that otherwise useable editions of forms would not be taken out of circulation because the expiration date had been reached. In addition, government waste has been avoided because stocks of forms will not have to be destroyed and reprinted.

18. SSA is not requesting an exception to the certification requirements at 5 CFR 1320.9 and related provisions at 5 CFR 1320.8(b)(3). Please note, however, that statistical survey methodology is not used for this information collection.

B. Collections of Information Employing Statistical Methods

Statistical methods are not used for this information collection.