

**Supporting Statement for Review of the Disability Hearing Officer's
Reconsidered Determinations Before It Is Issued
20 CFR 404.913-404.918, 404.918(d), 404.1512-404.1515, 404.1589 and 416.912-
416.915, 416.989, 416.1413-416.1418, 416.1418(d)
OMB No. 0960-0709**

A. Justification

1. *Sections 205(a), 223(d)(5)(A), 1614(a)(3)(H)(i), and 1631(d)(1) of the Social Security Act (the Act); and 20 CFR 404.1512-404.1515 and 416.912-416.915 of the Code of Federal Regulations, provide that an individual has the responsibility to furnish medical evidence showing that an impairment exists and the severity of the impairment. Once an individual is found to be disabled and begins to receive benefits, 20 CFR 404.1589 and 416.989 provide that the Social Security Administration (SSA) will, from time to time, conduct a continuing disability review (CDR) to determine if the individual will continue to be eligible for cash benefits, or if the claimant is no longer disabled, resulting in the cessation of cash benefits.*

If, as a result of the CDR, SSA determines that an individual is no longer disabled, SSA issues an initial determination, informing the individual of the decision and his/her appeal rights. The first level of appeal is a full evidentiary hearing before a Disability Hearing Officer (DHO). *20 CFR 404.913-404.918 and 416.1413-416.1418* detail the disability hearing process that an individual is afforded when he appeals an initial or revised initial CDR decision that he is no longer disabled. After the hearing, The DHO makes a determination about whether the claimant's disability continues or ceases, and sends the decision to the individual. If the determination is unfavorable to the claimant, he/she may appeal to an Administrative Law Judge.

However, SSA has a random, pre-effectuation, quality review of DHO determinations under *20 CFR 404.918 and 416.1418*. If the quality review reverses the DHO determination to a determination unfavorable to the claimant, a pre-effectuation notice is sent to the claimant giving him/her 10 days to submit a written statement of why the claimant disagrees with the determination, such statement to be considered before an adverse determination is effectuated. See *20 CFR 404.918(d) and 416.1418(d)*.

2. After a review of a Disability Hearing Officer's reconsidered determination, if there is a change unfavorable to the claimant, the claimant is given an opportunity to explain why his/her disability continues. The claimant has 10 days to submit a written explanation, which SSA considers before effectuation of the determination.

Respondents are CDR claimants for whom SSA will cease benefits.

3. The explanation provided by the individual in response to the proposed unfavorable reconsideration decision to cease his disability benefits is usually received in the form of a written statement by the individual. SSA does not require the information be recorded on a specific SSA form and does not collect it using any automated, electronic or other technical method. Due to the low volume of respondents, SSA currently has no plans to automate this procedure.
4. Although an individual may repeat his reasons for believing he is still disabled at various steps in the CDR process, any written statement he makes in response to the proposed unfavorable decision notice should be considered one-of-a-kind and not duplicative. 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 an impact on small businesses or other small entities.
6. The impact on Federal program or policy activities if the information collection is not conducted or is conducted less frequently is negligible. Issuance of a final unfavorable reconsideration decision is delayed somewhat because we afford the individual a final opportunity to submit additional evidence. 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 inconsistent with *5 CFR 1320.5*.
8. The 60-day advance Federal Register Notice published on July 11, 2008, at 73 FR 40005, and SSA received no public comments. The second Notice published on September 17, 2008, at 73 FR 53919. There have been no outside consultations with members of the public.
9. SSA provides no payment or gifts to the respondents.
10. The information collected is protected and held confidential in accordance with *42 U.S.C. 1306*, *20 CFR 401* and *422*, *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. The provisions of *20 CFR 404.916 (d)* and *416.1418 (d)* only apply to

DHO determinations that have been reviewed and there is a disagreement with the DHO determination. Based on historical data over the last few years, we estimate that SSA will review an average of 366 claims and only 8 will result in disagreements. Therefore, with an average burden per response of 1 hour, the estimated annual burden is 8 hours.

13. There is no known cost burden to the respondents.
14. The costs to the Federal Government are negligible.
15. There is a change in the burden hours for this process. The previous justification statement erroneously used information for continuing disability reviews instead of quality reviews. This process is part of SSA's quality review program. The corrected burden data shows a more accurate estimate of disability hearing office determination reviews performed by SSA's Office of Medical and Vocational Expertise. While the current figures are fewer than ten members of the public, that number fluctuates per year and can increase to ten or over depending on the number of disagreements in a given year.
16. SSA will not publish the information for statistical purposes.
17. SSA is not requesting an exception to display the OMB expiration date.
18. SSA is not requesting an exception to the certification requirements. Please note, however, that statistical survey methodology is not used for this information collection.

B. Collection of Information Employing Statistical Methods

Statistical methods are not used for this information collection.