

# SUPPORTING STATEMENT FOR REGULATION RIN 0960-0AG56/SSA-3396P

## REVISIONS TO RULES ON REPRESENTATION OF PARTIES

### NOTICE OF PROPOSED RULEMAKING

OMB No. 0960-NEW

#### A. Justification

##### 1. Background, Authorizing Laws and Regulations

People who conduct business with the Social Security Administration (SSA) on behalf of Social Security benefits applicants or recipients are termed representatives. SSA has established rules in the *Code of Federal Regulations* (Chapter 20, Parts 404, 408, 416, and 422) describing who can be representatives and how they must conduct business with the agency.

To accommodate the changes in representatives' business practices, increase our use of the Internet, and improve our efficiency, SSA is planning changes to Parts 404 and 416 of our representative regulations. Specifically, we propose to:

- 1) Recognize entities as representatives;
- 2) Define "principal representatives;"
- 3) Authorize principal representatives to sign/file benefits claims on behalf of claimants;
- 4) Mandate the use of form SSA-1696 to appoint, revoke, or withdraw a representative's appointment;
- 5) Define "professional representatives;"
- 6) Require professional representatives to use SSA's electronic services as they become available;
- 7) Require professional representatives to submit certain types of requests for administrative law judge hearings electronically;
- 8) Require representatives to keep paper copies of certain documents.

Sections 405(a), 810(a), and 1634 of the *Social Security Act* authorize SSA to issue regulations. Sections 406(a)(1) and 1 of the *Act* authorize SSA to recognize people as representatives of benefits claimants.

This ICR is for the regulation sections in these revised and new rules that contain public reporting burdens (listed below in #2).

##### 2. How, by Whom, and for What Purpose the Information is to be Used

SSA will use the information it collects from this Information Collection Request (ICR) to effect changes in the way representatives do business with the agency (our target goals

are in question #1, above). Below we list and describe the revised/new regulation sections that contain public reporting requirements. We paired each section from part 404 (which pertains to *Title II* of the Act) with its corresponding section in part 416 (which pertains to *Title XVI* of the Act).

**404.612, 404.1710/416.315, 416.1510** – Principal representatives may sign and file applications with SSA on beneficiaries’ behalf.

**404.909, 404.910, 404.1740/416.1409, 416.1410, 416.1540** - Disability claimants who wish to request a reconsideration must do so in writing within 60 days after receiving an initial determination notice (unless SSA grants a time extension). Parties filing on their own behalf or using non-professional representatives may use SSA’s Internet website to submit the request; professional representatives are required to do so.

**404.933, 404.934/416.1433, 416.1434** - Disability claimants who wish to request a hearing before an administrative law judge must do so in writing within 60 days after notice of the previous determination/decision is received (unless SSA grants a time extension). Parties filing on their own behalf or using non-professional representatives may use SSA’s Internet website to submit the request; professional representatives are required to do so.

**404.1740/416.1540** - Professional representatives for disability claimants must always use an SSA-approved form on SSA’s Internet site to request a reconsideration or a hearing before an administrative law judge.

**404.1705, 404.1707, 404.1712/416.1505, 416.1507, 416.1512 and 408.1101** – Claimants may appoint, change, revoke, or re-appoint a representative, and representatives may accept appointment as representative or withdraw as representative using a form that we designate.

**404.1705, 404.1713, 404.1730/416.1505, 416.1530, 416.1513** - Representatives must register with SSA to receive direct payment of fees from claimants’ past-due benefits, if any.

**404.1712, 404.1720, 404.1725, 404.1730/416.1512, 416.1520, 416.1525, 416.1530** -- Representatives must sign the fee petition, file a request with us to charge or receive a fee from claimants, and file a written request with SSA to obtain approval of a fee for representative services.

**404.1715/416.1515** – Principal representatives must inform other representatives and the beneficiary about any information or requests SSA sends to the principal representative.

**404.1728/416.1528** - If representatives provide services to beneficiaries in connection with a hearing/court proceeding before SSA and want to charge for those services, they must file a request and provide necessary documentation.

**404.1732/415.1532** - Representatives may waive the right to charge and collect a fee, or direct payment.

**404.1740/416.1540** - Representatives must maintain hard copies of certain forms that we require with signatures and dates of signing (ex: the form that we designate to appoint a representative and certain attestations).

**404.1755/416.1555** - If SSA files charges against a representative, the representative may contest these charges.

**404.1780/416.1580** - If representatives file a brief or other written statement with the Appeals Council, they should send a copy to the opposite party and certify that they did so.

**404.1799/416.1599** - Representatives whom SSA suspended or disqualified may submit any evidence they want the Appeals Council to consider with their request for reinstatement as a representative.

### **3. Use of Information Technology to Collect the Information**

For those sections with public reporting burdens represented by existing forms, some have electronic versions developed under the Agency's Government Paperwork Elimination Act plan and some do not; the ICRs for these forms explain the rationale for the electronic status of the forms. Any new sections with new burdens that do not require/accommodate electronic submission have a low frequency of usage.

### **4. Why Duplicate Information Cannot Be Used**

The nature of the information we are collecting and the manner in which we are collecting preclude duplication. We do not use another collection instrument to collect similar data.

### **5. How Burden on Small Respondents is Minimized**

This collection will not significantly affect small businesses or other small entities.

### **6. Consequences of Not Collecting Information or Collecting it Less Frequently**

If SSA did not conduct this ICR, representatives would not know how to conduct business properly with the agency, and claimants would be unable to appoint representatives electronically. Since we only collect this information as necessary (i.e., when claimants want to appoint a representative, when representatives need to send us or other parties information), we cannot collect it less frequently.

There are no technical or legal obstacles to burden reduction.

## **7. Special Circumstances that Need to be Explained**

There are no special circumstances that would cause SSA to conduct this information collection in a manner inconsistent with 5 CFR 1320.5.

## **8. Solicitation of Public Comment and Other Consultations with the Public**

SSA published this Notice of Proposed Rulemaking on September 8, 2008 at 73 FR 51963. If we receive any comments in response to this Notice, we will forward them to OMB.

SSA did not consult with the public in the development of these rules.

## **9. Payment or Gifts to Respondents**

SSA provides no payment or gifts to the respondents.

## **10. Assurances of Confidentiality**

SSA protects and keeps confidential the information we are requesting 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. Justification for Sensitive Questions**

The only potentially sensitive information this ICR collects is the claimant's Social Security Number. However, we must collect this information to appoint representatives and ensure that representatives can conduct business on behalf of their claimant. We make every effort to protect and keep confidential this type of data (see question #10, above).

## **12. Estimates of Public Reporting Burden**

Below is a chart of the regulation sections containing public reporting requirements and the burden they impose. For some sections, we previously accounted for the public reporting burdens in existing OMB-approved collections, and we inserted a 1-hour placeholder burden for them. For sections for which there are no OMB-approved collections reporting burdens, we provided burden estimates in burden hours. We did not calculate separate cost burdens.

Please note that Part 404 sections are for Federal Old-Age, Survivors and Disability Insurance, and Part 416 sections are for Supplemental Security Income for the Aged, Blind, and Disabled.

Regulation Sections and Description	Number of Respondents	Frequency of Response	Average Burden Per Response (minutes)	Estimated Annual Burden (hours)
<p><b>404.612; 404.1710; 416.315; 416.1510</b></p> <p>Principal representatives may sign and file applications with SSA on behalf of beneficiaries.</p>	-	-	-	<p>1 (placeholder)</p> <p>Forms which cover this burden: any benefits application beneficiaries' representatives are filing on their behalf (ex: disability)</p>
<p><b>404.909; 404.910; 404.1740; 416.1409; 416.1410; 416.1540</b></p> <p>Disability claimants who wish to request a reconsideration must do so in writing within 60 days after receiving a notice of initial determination (unless SSA grants a time extension). Parties filing on their own behalf or using non-professional representatives may use SSA's Internet website to submit the request; professional representatives are required to do so.</p>	-	-	-	<p>1 (placeholder)</p> <p>OMB No. 0960-0622 (SSA-561, Request for Reconsideration)</p>
<p><b>404.933; 404.934; 416.1433; 416.1434</b></p> <p>Disability claimants who wish to request a hearing before an administrative law judge must do so in writing within 60 days after receiving notice of the previous determination/decision (unless SSA grants a time extension). Parties filing on their own behalf or using non-professional representatives may use SSA's</p>	-	-	-	<p>1 (placeholder)</p> <p>OMB No. 0960-0269 (HA-501, the Request for Hearing by an ALJ)</p>

Internet website to submit the request; professional representatives are required to do so.				
<b>404.1740; 416.1540</b>  Professional representatives for disability claimants must always use an SSA-approved form on SSA's Internet site to request a reconsideration or a hearing before an administrative law judge.	-	-	-	1 (placeholder)  OMB No. 0960-0269
<b>404.1705; 404.1707; 404.1712; 416.1505; 416.1507; 416.1512; 408.1101</b>  Procedures for beneficiary to appoint, change, revoke, or re-appoint a representative and for representatives to accept appointment as representative or withdraw as representative.	-	-	-	1 (placeholder)  OMB No. 0960-0527 (Form SSA-1696, Appointment of Representative)  OMB No. 0960-0731 (Form SSA-0731, Request for Business Entity Taxpayer Information)  OMB No. 0960-0732 (Form SSA-1699, Request for Appointed Representative's Direct Payment Information)
<b>404.1705; 404.1713; 404.1730; 416.1505; 416.1530 ; 416.1513</b>  Representatives must register with SSA to receive payment.	-	-	-	1 (placeholder)  OMB No. 0960-0527
<b>404.1712; 404.1720; 404.1725; 404.1730; 416.1512; 416.1520; 416.1525; 416.1530</b>  Procedures for representative to sign fee petition; and Representative must file a request with us to charge or receive a fee; and to obtain approval of a fee	-	-	-	1 (placeholder)  OMB No. 0960-0104 (Form SSA-1560, Petition to Obtain Approval of a Fee for Representing a Claimant Before the Social Security

representative must file a written request with SSA.				Administration)
<b>404.1715; 416.1515</b>  Principal representatives are responsible for informing other representatives of the beneficiary about any information SSA sent to the principal representative.	56,000	5	2	9,333
<b>404.1728; 416.1528</b>  If representatives provide services to beneficiaries in connection with a hearing/court proceeding before SSA and wants to charge for those services, they must file a request and provide necessary documentation.	-	-	-	1 (placeholder)  OMB No. 0960-0104
<b>404.1732; 416.1532</b>  Representatives may waive the right to charge and collect a fee, direct payment, or both.	-	-	-	1 (placeholder)  OMB No. 0960-0527
<b>404.1740; 416.1540</b>  Procedures requiring representatives to maintain hard copy of certain forms with signatures and dates of signing.	-	-	-	1 (placeholder)  OMB No. 0960-0527
<b>404.1755; 416.1555</b>  If SSA files charges against a representative, the representative may contest these charges.	Less than 10 respondents	-	-	-
<b>404.1780; 416.1580</b>  If a party files a brief or other written statement with the Appeals Council, the party should send a copy to the opposite party and certify that they did so.	Less than 10 respondents	-	-	-
<b>404.1799; 416.1599</b>  Representatives who were suspended or disqualified should	Less than 10 respondents	-	-	-

submit any evidence they want the Appeals Council to consider along with their request to be reinstated as a representative.				
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**13. Annual cost to the Respondents (Other)**

There is no known cost burden to the respondents.

**14. Annual Cost to Federal Government**

For those regulation sections whose burden is covered by existing information collection tools, the annual cost to the Federal Government is accounted for in their ICRs. For those sections with new burden, the cost is negligible.

**15. Program Changes or Adjustments to the Information Collection Budget**

These proposed rules increase the public reporting burden.

**16. Plans for Publication of Results of Information Collection**

SSA will not publish the results of the information collection.

**17. Request not to Display OMB Expiration Date**

For those regulation sections whose burden is covered by electronic collections, SSA is not requesting an exemption from the requirement to publish the OMB approval expiration date.

For those regulation sections whose burden is covered by paper forms, OMB has exempted SSA from the requirement to print the OMB approval expiration date on the 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). Accordingly, OMB granted this exemption so we would not have to stop using forms with expired OMB approval dates. In addition, we avoid Government waste since we will not have to destroy and reprint stocks of forms.

**18. Exceptions to Certification Statement**

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).

**B. Collections of Information Employing Statistical Methods**

SSA will not use statistical methods for this information collection.