

Supporting Statement for Application of Circuit Court Law
20 CFR §§ 404.985 and 416.1485
OMB No. 0960-0581

A. Justification

1. Introduction/Authoring Laws and Regulations

Section 205(a) of the Social Security Act, 42 U.S.C. 405(a), gives the Commissioner of Social Security “full power and authority to make rules and regulations to establish procedures ... in order to establish the right to benefits hereunder.” Under our regulations for applying circuit court law, Section 20 CFR 404.985 and 416.1485 of the Code of Federal Regulations (CFR), we are required to apply a holding of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act or regulations to other claims within the applicable judicial circuit. To conform with these regulations, we prepare a ruling acquiescing in the court’s decision, as appropriate. When it appears that an acquiescence ruling (AR) may be needed, SSA must develop criteria for our adjudicators to identify claims that may be subject to readjudication after the AR is published. Identification of such claims begins when our adjudicators receive the criteria and claims are selected to be considered for readjudication. The timeframe for developing and issuing these instructions is limited and, for that reason, our selection of claims will be overly broad. In addition, there is a short period of time from the date we receive the court’s decision for review and the date our adjudicators begin identifying claims when we are unable to identify claimants potentially entitled to a readjudication.

2. Description of Collection

Under 20 CFR 404.985(b) and 416.1485(b), claimants whose claims are identified or who self-identify will receive a notice providing information about the AR and the right to request readjudication. After reviewing this notice, the individual claimant or the person’s authorized representative will be able to decide whether requesting readjudication of the claim is in his or her best interests. Those who do not receive a notice also have the opportunity to request readjudication after they become aware that an AR was published. Claimants must decide whether or not to respond to the notice and provide the requested information. The notice indicates that claimants can request readjudication only by contacting their local field office or through a written response to the letter.

Individuals who request readjudication are claimants for benefits under the Social Security Act. We will use requests for readjudication received from claimants to determine whether the claims are subject to a readjudication. We will review the individual’s claims folder or other available information to determine whether the issue(s) stated in the AR pertain to the claimant’s case. If readjudication is appropriate, we will consider only those issue(s) covered by the AR and any new determination or

decision will be subject to administrative and judicial review in accordance with our regulations.

3. Use of Information Technology to Collect the Information

Claimants with a claim that may be subject to readjudication receive a notice by mail from SSA that informs them of the AR and provides specific information about their rights. The notice indicates that the claimants can request readjudication only by contacting their local field office or through a written response to the letter. There is currently no electronic means to collect this information. Due to the low volume of respondents for this collection, SSA does not currently have plans to create an electronic submission process for this information, because higher volume collections take priority for electronic implementation.

SSA did not create an electronic version of a notice that informs claimants of the AR under the agency's Government Paperwork Elimination Act (GPEA) because less than 50,000 respondents would respond to any given notice.

4. Why We Cannot Use Duplicate Information

The nature of the information we are collecting and the manner in which we are collecting it preclude duplication. SSA does not use another collection instrument to obtain similar data.

5. Minimizing Burden on Small Respondents

This collection does not affect small businesses or other small entities.

6. Consequence of Not Collecting Information or Collecting it Less Frequently

If this information is not collected, SSA would not be able to determine if a claimant is eligible for readjudication. Consequently, SSA would be unable to readjudicate cases pursuant to the regulations for applying circuit court law. This collection of information is performed only when we publish an AR and the claimant requests application of the AR to a prior determination or decision; therefore, it cannot be collected less frequently.

There are no technical or legal obstacles to burden reduction.

7. Special Circumstances

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

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

SSA published the 60-day advance Federal Register Notice on October 26, 2009 at 74 FR 55080, and we received no public comments. We published the second Notice on December 28, 2009, at 74 FR 68655. There have been no outside consultations with members of the public.

9. Payment or Gifts to Respondents

SSA does not provide payment or gifts to the respondents.

10. Assurances of Confidentiality

SSA protects and holds confidential the information it collects in accordance with 42 U.S.C. § 1306, 20 C.F.R. Parts 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 information collection does not contain any questions of a sensitive nature.

12. Estimates of Public Reporting Burden

The estimate of the hour burden is contingent on the number of notices mailed each year. Our experience is that the number of notices mailed will vary greatly depending on the number of ARs published and the issues involved in those ARs. Since 2001, we have published less than one AR per year on average. We expect to publish one to two ARs per year on average. Each AR could involve from 0 to 50,000 claimants and total notices could range from 0 to 100,000 annually. Despite the uncertainty in projecting such a burden, our best estimate for the number of notices is 5,000 for each AR and, therefore, 10,000 annually. We calculate an estimated 17 minutes per response. Accordingly, the burden is 2,833 hours. Each respondent needs to request readjudication only once. The public reporting burden of 17 minutes for each response to a notice is based on our experience with similar field operations. The total burden is reflected as burden hours, and no separate cost burden has been calculated.

13. Annual Cost to Respondents (Other)

This collection does not impose a known cost burden to the respondents.

14. Annual Cost to Federal Government

The annual cost to the Federal Government is approximately \$67,905. This estimate is a projection of the costs for printing and distributing the collection instrument (the AR letter) and for collecting the information.

15. Program Changes or Adjustments to the Information Collection Request

There are no changes to the public reporting burden.

16. Plans for Publication Information Collection Results

SSA will not publish the results of the information collection.

17. Displaying the OMB Approval Expiration Date

OMB granted SSA an exemption from the requirement to print the OMB expiration date on its program forms. SSA produces millions of public-use forms with life cycles exceeding those of an OMB approval. Since SSA does not periodically revise and reprint its public-use forms (e.g., on an annual basis), OMB granted this exemption so SSA would not have to destroy stocks of otherwise useable forms with expired OMB approval dates, avoiding Government waste.

18. Exceptions to Certification Statement

SSA is not requesting an exception to the certification requirements at 5 C.F.R. § 1320.9 and related provisions at 5 C.F.R. § 1320.8(b)(3).

B. Collection of Information Employing Statistical Methods

SSA does not use statistical methods for this information collection.