

**Supporting Statement for  
Attorney and Non-Attorney Representative Fee Payment and  
Fee Withholding Procedures**

**Formerly Titled: Temporary Extension Of Attorney Fee Payment System To Title XVI; 5-Year Demonstration Project Extending Fee Withholding And Payment Procedures To Eligible Non-Attorney Representatives; Definition Of Past-Due Benefits; And Assessment For Fee Payment Services**

**20 CFR 404.1730(c)(2)(i), 404.1730(c)(2)(ii), 416.1530(c)(2)(i), 416.1530(c)(2)(ii)**

**OMB No. 0960-0745**

**A. Justification**

**1. Introduction/Authoring Laws and Regulations**

The Social Security Administration (SSA) collects information used in directing payment of authorized fees to attorneys or other persons who represent claimants for benefits before SSA. *Public Law 111-142* provides for the attorney fee withholding procedures under title II of the *Social Security Act* (the *Act*), and provides for such procedures under titles II and XVI of the *Act* to qualified non-attorney representatives.

Formerly, *Section 302* of the *Social Security Protection Act (SSPA) of 2004, P.L. 108-203*, amended *section 1631(d)(2)* of the *Act* to temporarily extend the title II attorney fee withholding and direct payment process to title XVI. *Section 303* of the SSPA directed SSA to develop and conduct a 5-year nationwide demonstration project to allow qualifying non-attorney representatives the option of fee withholding and direct payment of fees under both titles II and XVI.

Congress passed legislation on February 27, 2010, making the temporary extensions permanent on procedures governing attorney and non-attorney representatives fee payment and fee withholding (*Public Law 111-142, Social Security Disability Applicants' Access to Professional Representation Act of 2010*). This information collection request (ICR) is for the sections of the regulation containing public reporting burdens.

**2. Description of Collection**

The following regulation sections describe the public reporting requirements posed by the above regulation. SSA uses the information collected to allow attorney fee withholding under title II and the direct payment process for non-attorney representatives under titles II and XVI. Below is a description of the contents of each relevant regulation section.

**404.1730(c)(2)(i)** - If representatives do not file a request within 60 days, they will receive a notice from SSA telling them to do so within 20 days of the notice date. This section applies to title II.

**404.1730(c)(2)(ii)** - Representatives must send beneficiaries copies of time extension requests they make to SSA. This section applies to title II.

**416.1530(c)(2)(i)** - If representatives do not file a request within 60 days, they will receive a notice from SSA telling them to do so within 20 days of the notice date. If after 20 days, SSA does not receive a request or intent to file a request for fee approval, SSA will pay all past-due benefits to the claimant. This section applies to Title XVI.

**416.1530(c)(2)(ii)** - Representatives must send beneficiaries copies of time extension requests they make to SSA. This section applies to Title XVI.

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

SSA has cleared those sections of the regulation covered under existing OMB-approved collections; we discuss electronic availability in the ICRs for those collections (see addendum). For the remaining sections of the regulation that pose a public reporting burden, SSA will not implement electronic versions due to extremely low volume of usage.

### **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 we did not collect this information, SSA would not be in compliance with the law. Since we collect the information on an as-needed basis only, we cannot collect it 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 CFR 1320.5.

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

SSA published the 60-day advance Federal Register Notice on December 21, 2009, at 74 FR 67945, and SSA received no public comments. We published the 30-day advance Federal Register Notice on March 4, 2010 at 75 FR 9992. If we

receive any comments in response to the 30-day Notice, we will forward them to OMB. At the time the 30-day advance Federal Register Notice published, legislation was pending House resolution. Congress signed the bill (Public Law 111-142 “Social Security Disability Applicants’ Access to Professional Representation Act of 2010”) making the provisions permanent after the 30-day Notice went to print.

There have been no outside consultations with members of the public.

**9. Payment or Gifts to Respondents**

The only payment SSA provides to respondents is the appropriate fees for representing a beneficiary, as per these rules. Otherwise, we do not provide any payment or gifts to respondents.

**10. Assurances of Confidentiality**

SSA protects and holds confidential the information it collects 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 information collection does not contain any questions of a sensitive nature.

**12. Estimates of Public Reporting Burden**

Below is a chart of the estimated burden for each relevant regulation section.

<b>Regulation Section</b>	<b>Number of Respondents</b>	<b>Frequency of Response</b>	<b>Annual Number of Responses</b>	<b>Average Burden Per Response (minutes)</b>	<b>Estimated Annual Burden (hours)</b>
404.1730(c)(2)(i)	841	10/year	8,410	30	4205
404.1730(c)(2)(ii)	600	1	600	3	30
416.1530(c)(2)(i)	561	10/year	5,610	30	2805
416.1530(c)(2)(ii)	400	1	400	3	20
<b>Totals</b>	<b>2,402</b>	<b>-</b>	<b>15,020</b>	<b>-</b>	<b>7,060</b>

The total burden for this ICR is 7,060 hours. This figure represents burden hours, and we did not calculate a separate cost burden.

**13. Annual Cost to the Respondents**

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

**14. Annual Cost To Federal Government**

The estimated cost to the Federal Government to collect the information is negligible.

**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**  
SSA is not requesting an exception to the requirement to display an expiration date.

**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 does not use statistical methods for this information collection.