

Supporting Statement
Request for Hearing By Administrative Law Judge SSA-HA-501-U5
20 CFR 404.929, 404.933, 416.1429, 416.1433, 42 CFR 405.722, 20 CFR 418.1350
OMB No. 0960-0269

A. Justification

1. Introduction/Authoring Laws and Regulations

The Social Security Administration's (SSA) collection of this information is necessary so that an individual who wishes to request an administrative hearing can file a written request providing specific information. The statutory authority is in the *Social Security Act* (the *Act*) at *Sections 205(b), 1155, 1631(c), and 1869*. The implementing regulations are at *20 CFR 404.929, 404.933, 416.1429, 416.1433, 405.722, and 418.1350* of the *Code of Federal Regulations*. Additionally, the *Foster Care Independence Act of 1999, section 251 of Public Law (Pub L.) 106-169* established Title VIII of the *Act* for providing special case benefits to certain World War II veterans. *Section 809 of Pub L. 106-169* establishes hearing and review rights, and the procedural protocol to administer this program.

Section 105 (a)(2)(B) of Pub L. 103-296 (the *Social Security Independence and Program Improvements Act*, which established SSA as an independent agency) stipulated that SSA and the Department of Health and Human Services (HHS) would share responsibility for the Medicare (*Title XVIII*) appeals process. The process provided for under this statute was that SSA would continue to perform the hearings function for determinations made by SSA about Medicare Part A and Part B entitlement. As required by the *Pub L. 103-296*, SSA and HHS continued to negotiate transfer of some of the Medicare appeal functions; in 1995, the two agencies signed an agreement transferring to the Medicare Appeals Council within HHS, the Medicare appellate review functions previously performed by the SSA Appeals Council. *Section 931 of Pub L. 108-173* required transfer of the functions of administrative law judges (ALJ) responsible for hearing appeals under *Title XVIII* of the *Act* from SSA to HHS. Additionally, effective since January 2007, HHS makes determinations regarding Medicare Part B premium subsidy reductions required under *section 1839 (i) of the Act (Pub L. 108-173)*.

- 2. Description of Collection** - SSA collects the information on Form HA-501-U5 from individuals wanting to appeal a determination affecting their rights to benefits under the *Act*. For Title XVIII purposes, SSA makes determinations about income-related monthly adjustment amounts added to Medicare Part B premiums based on tax data obtained from the Internal Revenue Service (IRS). Form HA-501-U5 provides individuals with a means to comply with the statute requiring a written

request for appeal. Using Form HA-501-U5, the claimant files the requisite written request and provides the needed information, thus establishing a valid request for hearing and processing the request. The ALJ uses the information to determine if the individual: 1) filed the request within the prescribed time; 2) whether the person filing is the proper party; and 3) whether the person has completed the steps necessary to obtain the right to a hearing. The ALJ also uses the information to determine the claimant's reason(s) for disagreeing with SSA's prior determinations in the case, whether the person has additional evidence to submit, wants an oral hearing or a decision on-the-record; and, whether the person has (or wants to appoint) a representative. The ALJ uses the information for requesting claim files, for initiating other actions leading to the scheduling and holding of a hearing, for hearing-level data input, and for setting diary dates for completion of the case within prescribed timeframes set by SSA or the courts.

3. **Use of Information Technology to Collect the Information** - Form HA-501-U5 is available in paper as well as electronic form (i501) through the iAppeals program. Individuals seeking to request a hearing can complete the form via an in-office interview where an SSA field office employee enters the information into SSA's Modernized Claims Systems (MCS/MSSICS). Based on our data, we estimate approximately 95 percent of all respondents use the electronic version.
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 use Form HA-501-U5, the public would have no way of appealing their claim and request a hearing by the ALJ. If SSA did not collect this information, the agency would violate regulatory requirements by depriving individuals of the right to appeal a denied claim to the next adjudication. Therefore, 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 March 4, 2010 at 75 FR 9992, and received no public comments. We published the 30-day advance Federal Register Notice on May 13 at 75 FR 27036. We did not consult with the public in the development or revision or maintenance of this form.

We received the following public comment in response to our 30-day advance Federal Register Notice.

Comment: I don't think you meant to refer to HHS.

*3. Request for Hearing by Administrative Law Judge--20 CFR 404.929, 404.933, 416.1429, 404.1433, 405.722, 418.1350--0960-0269. When SSA denies applicants' or beneficiaries' requests for new or continuing benefits, those applicants/beneficiaries are entitled to request a hearing to appeal the decision. SSA uses Form HA-501 to document such requests. Although SSA collects this information, actual hearings take place before ALJs employed by the **Department of Health and Human Services (HHS)**. The respondents are: (1) Applicants for or current recipients of various Social Security benefits who want to appeal SSA's denial of their requests for new or continued benefits; and (2) Medicare Part B recipients who must pay the Medicare Part B Income-Related Monthly Adjustment Amount and want to appeal SSA's decision at a hearing before an HHS ALJ.*

SSA response to public comment: In the above referenced Federal Register Notice, we were referring to the review functions ALJs perform for Medicare Part D appeals. In those circumstances, the ALJs are employed by HHS. However, our commenter is correct in that the ALJs who are involved in all other appeals covered by this ICR are employed by SSA. We regret any confusion the wording of our Notice may have caused.

9. **Payment of Gifts to Respondents** - SSA does not provide payments 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 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** - Form HA-501-U5 is currently used by 669,469 respondents annually. The estimated response time is 10 minutes for the paper form/MCS versions and 19 minutes for the Internet version. Half of our current respondents use the Internet version through the iAppeals program. Therefore, the annual reporting burden is as follows:

Collection Method	Number of Respondents	Frequency of Response	Estimated Completion Time (Minutes)	Total Burden (Hours)
Paper & Modernized Claims System	334,735	1	10	55,789
i501	334,734	1	19	105,999
Totals:	669,469			161,788

The total burden for this ICR is 161,788 hours; there were no cost burdens to calculate.

13. **Annual Cost to the Respondents** - This collection does not impose a known cost burden to the respondents.
14. **Annual Cost to the Federal Government** - The annual cost to the Federal Government is approximately \$55,000. This estimate is a projection of the costs for printing and distributing the collection instrument and for collecting the information. In addition, the costs for iAppeals to the Federal Government are minimal upkeep costs that we share with all of SSA's other Internet applications.

- 15. Program Changes or Adjustment to the Information Collection Request –**
The decrease in burden is due to a decrease in estimated completion times under the collection method for the i501 internet process.
- 16. Plans for Publication or Adjustments to the Information Collection Request -**
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. Exception 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.