

**Supporting Statement for the HA-82  
Notice of Bench Decision  
20 CFR Parts 404 and 416  
OMB No. 0960-0694**

**A. Justification**

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

Section 702(a)(5) of the *Social Security Act* (the *Act*) allows the Commissioner of the Social Security Administration (SSA) to implement the rules and regulations necessary to administer Title II and Title XVI Social Security programs. Sections 205(a) and 1631(d) of the *Act* require the Commissioner to regulate the collection and furnishing of evidence necessary to determine entitlement to Titles II and XVI payments. As part of the entitlement determination process, SSA must give reasonable notice and opportunity for a hearing if applicants for benefits request one, and, if a hearing is held, SSA must make a decision on the basis of evidence produced there [Sections 205(b)(1) and 1631(c)(1)(A)]. Both the *Act* and SSA's regulations discuss the administrative review process for determining entitlement to payments. The regulations also discuss the processes for reviewing disputed claims: in such cases, hearings are held before administrative law judges (ALJs) employed by SSA's Office of Disability Adjudication and Review (ODAR).

20 CFR 404.953 and 416.1453 of the *Code of Federal Regulations* (the *Code*) state that the records from the oral hearing preclude the need for a written decision if an ALJ makes a wholly favorable oral decision for a claimant at an administrative appeals hearing that includes all the findings and the rationale for the decision. We call this the incorporation-by-reference process. These regulations also state that if the involved parties want a record of the oral decision, they may submit a written request for these records.

**2. Description of Collection**

SSA collects identifying information under the aegis of sections 20 CFR 404.953 and 416.1453 of the *Code* to determine how to send interested individuals written records of a favorable incorporation-by-reference oral decision made at an administrative review hearing. Since there is no form the public can use to request a written record of the decision, the involved parties send SSA their contact information and reference the hearing for which they would like a record. SSA employees collect the information only once. The respondents are applicants for Disability Insurance Benefits and Supplemental Security Income payments based on disability, or their representatives as applicable, who received a wholly favorable oral decision under the regulations cited above.

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

There is no standardized form for collecting this information. SSA did not create an electronic collection method under the Government Paperwork Elimination Act because the frequency of request for a copy of the oral (bench) decision is below 50,000, and too low to warrant the resources we would require for electronic implementation. However, we do accept responses through email as well as fax.

**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 SSA did not conduct this information collection, parties wishing to request written records of incorporated-by-reference oral rulings would have no means of doing so. This would be a violation of claimants' rights, and would compromise the integrity of the incorporation-by-reference procedure. Since we only collect the information when a claimant requests a written record of an incorporated-by-reference oral procedure, we cannot collect it less frequently. There are no technical or legal obstacles that prevent 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**

The 60-day advance Federal Register Notice published on June 7, 2010, at 75 FR 32231, and SSA received no public comments. The second Notice published on August 26, 2010, at 75 FR 52578. If we receive any comments in response to the 30-day Notice, we will forward them to OMB. SSA did not consult members of the public in the development or maintenance of this form.

**9. Payment or 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**

SSA estimates 2,500 respondents take 5 minutes annually to request a copy of the incorporated-by-reference procedure, for 208 burden hours. This figure represents burden hours, and we did not calculate a separate cost burden.

**13. Annual Cost to the 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 \$40,000. This estimate is a projection of personnel time costs and the cost of copying and sending records of the requested oral decision. Since the information we collect through these regulations is not associated with a form, SSA cannot account for any costs for this regulation through a form's ICR.

**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 the OMB approval 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.