



## SOCIAL SECURITY

July 26, 2010

Kevin W. Herms  
Office of Information and Regulatory Affairs, OMB  
Room 10235, New Executive Office Bldg.  
725 17<sup>th</sup> St. NW  
Washington, D.C. 20503

Dear Mr. Herms:

As per our discussions with OMB, the Social Security Administration (SSA) is requesting emergency clearance for Program Operations Manual System (POMS) requirements, SSA's program instructions for obtaining information necessary for the reissuance of Economic Recovery Payments (ERPs) to the estates of deceased beneficiaries who were entitled to the payments. Background information and our justification for requesting emergency clearance follow.

### **Background**

The American Recovery and Reinvestment Act of 2009 (ARRA), *P.L. 111-5*, directs SSA to make one-time \$250 ERPs to certain Social Security beneficiaries and Supplemental Security Income (SSI) recipients. In some instances, the ERP of an appropriately certified recipient returned to SSA due to the death of the recipient. SSA has received requests from the estates or the estate representatives asking SSA to issue the ERP to the deceased individual's estate. SSA's Office of the General Counsel (OGC) determined that the ARRA provides a right to receive an ERP at the time of certification, and this right does not terminate with the recipient's death. Therefore, SSA will issue ERPs to the duly authorized representative of the estate of an individual who, though alive at the time of certification, died before financially transacting (i.e., cashing or depositing with a financial institution) the ERP. Only ERPs returned to SSA due to death of the recipient will be eligible for reissuance.

To issue an ERP to the estate of a deceased recipient, we need specific information to ascertain the eligibility and veracity of the estate representative requesting payment (see Interim Business Process below).

### **Issues in Implementation/Need for Emergency Clearance**

To collect information from representatives of the deceased beneficiaries' estates, SSA considered sending letters to the last known address of the deceased in an attempt to reach the next of kin. The letters would have included sensitive data about the deceased recipient. Because SSA could not be certain the letters would reach the intended parties, we decided against this process to avoid an inadvertent release of sensitive personal data. While in the

development stage, SSA also realized the scope of this proposed outreach was too ambitious. With no Federal, state, or territorial statute directing the payment of the ERPs to representatives of the deceased or to estates, SSA would be accountable to too many conflicting jurisdictional laws. SSA reviewed the law in each applicable jurisdiction and determined that each state and territory has different rules and requirements for the disposition of an individual's estate. Because of the lack of statutory guidance for the payment of the ERPs, and because of the conflicting jurisdictional laws, we are requesting to create a business process that would allow SSA to pay the ERPs to representatives of the deceased.

To pay these ERPs, SSA will need to establish a process to collect the necessary proofs to verify the representative's authority to receive the ERP on behalf of the deceased. We will also need to send a request to Treasury for payment before the December 31, 2010 deadline imposed in the ARRA for issuing ERPs. For these reasons, we need to obtain the information to verify the authenticity of the representative requesting reissuance of the ERP as expeditiously as possible.

### **Interim Business Process**

To ensure correct payment of ERPs to estates, we need certain information about an individual's right to represent an estate. SSA will require the putative representative to provide information including the name of the deceased, date of death, city and state of death, the city and state of the deceased's last residence, the name of representative(s) of the deceased or the estate, and an explanation of the legal authority that the representative(s) has to act on behalf of the deceased or the estate. Our need to obtain this specific information for ERP reissuance would only be necessary for a limited audience and for a limited time. .

There are no forms currently in use to document statements of evidence for estate payments under the ARRA. Therefore, we are seeking emergency clearance of our Program Operations Manual System (POMS) requirements, SSA's program instructions, to obtain verification of those individuals presenting themselves as representatives of the estates of deceased individuals who were ERP-eligible. Estate representatives will be required to submit proof of authorization to represent the estate in order to request issuance of the ERP owed to the deceased.

Our proposed POMS requirements would direct the verifying of information from the representative requesting reissuance of the ERP. We would obtain this information through a personal interview at an SSA field office (FO). The information we will need is:

- (a) the deceased individual's name;
- (b) the estate's taxpayer identification number, if available;
- (c) the deceased individual's Social Security or claim number;
- (d) the identity of the individual or entity to whom the ERP should payable;
- (e) a mailing address; and,
- (f) any accompanying proofs of authority to represent the estate of the deceased.

Once the representative provides a statement, we will forward this information and any accompanying proofs to SSA's OGC via email, to verify under the applicable state or territorial law, that the requesting individual meets the requirements necessary to receive the ERP.

The FO will forward all contact information via email to [^DCO OPSOS ERP Estates](#).

Once OMB approves our authority to obtain the information to meet the POMS requirements, we can make ERP reissuance policy available to estate representatives. This interim process will allow estate representatives to request the ERP payments owed.

To enable quick rollout of this business process, we are requesting OMB clearance one week from today, by August 2, 2010. If you have any questions or need any further information regarding this request, please do not hesitate to contact me.

Sincerely,

Faye I. Lipsky  
Reports Clearance Officer  
Social Security Administration