

**Supporting Statement for
Social Security Administration (SSA) Eligible Non-Attorney Representative
Direct Fee Payment Rules (RIN 0960-AH21), Regulation 3625I
20 CFR 404.1717, 404.1745-404.1799, and 20 CFR 416.1517, 416.1545-416.1599
OMB No. 0960-0699**

A. Justification

1. Introduction/Authoring Laws and Regulations

Section 3 of the *Social Security Disability Applicants Access to Professional Representation Act (PRA)* of 2010, *Public Law (Pub.L.) 111-142*, permanently extends the direct payment provision of Section 303 of the *Social Security Protection Act (SSPA)* of 2004, *Pub.L. 108-203*. The *PRA* permits the Social Security Administration (SSA) to extend direct payment of approved fees from claimants' past-due benefits to certain non-attorney representatives. Prior to the enactment of the *SSPA* and *PRA*, only attorneys could receive direct payment of SSA-approved fees. Under the *PRA*, non-attorneys must meet the following prerequisites to be eligible for direct payment of fees:

- Have been awarded a bachelor's degree from an accredited institution of higher education, or have equivalent qualifications derived from training and work experience if the individual does not have a bachelor's degree;
- Pass an examination testing knowledge of the relevant provisions of the *Social Security Act (Act)* and court decisions affecting the benefit programs under titles *II* and *XVI* of the *Act*;
- Secure professional liability insurance or equivalent insurance to protect claimants in the event of malpractice by the non-attorney representative;
- Pass a criminal background check; and
- Demonstrate completion of continuing education courses, including courses in ethics and professional conduct, to enhance professional knowledge in matters related to entitlement to, or eligibility for, benefits based on disability under titles *II* and *XVI* of the *Act*.

The *PRA*, as did the *SSPA*, requires SSA to collect the information needed to determine if applicants have satisfied these prerequisites. Under the *SSPA*, we used the Social Security Administration Non-Attorney Representative Demonstration Project Application to collect applicants' prerequisite information. SSA codified these rules in *20 CFR 404.1717, 404.1745-404.1799, and 20 CFR 416.1517, 416.1545-416.1599*. The current Information Collection Request (ICR)

is for a revised version of this form. We have revised the application to comply with the *PRA* and the *Revisions to Direct Fee Payment Rules (RIN 0960-AH21)*, Regulation 3625I, whose provisions we are clearing in this ICR as well.

2. Description of Collection

The information we collect helps us determine whether an applicant has fulfilled the statutory prerequisites and regulatory requirements as listed in item number 1 above. To verify this information, we will collect the following items, in addition to the application:

- a signed criminal background form, allowing us to conduct criminal background checks;
- the examination document and score for applicants who take the examination,
- professional or business liability insurance policies from applicants who pass the examination;
- official college transcripts from applicants who pass the examination and possess a bachelor's degree or higher
 - high school transcripts, diplomas, or GED certificates and proof (e.g., Internal Revenue Service Form W-2(s) and wage and tax statement(s)) of relevant professional experience from applicants who pass the examination, but do not possess a bachelor's degree or higher
- email messages, from eligible non-attorneys, which certify the completion of a required continuing education course.

Every year, SSA will evaluate the applications, conduct verification investigations, and issue recommendations regarding applicants' eligibility to sit for the examination and eligibility to receive direct payment. In addition, one of the requirements for direct payment is the completion of continuing education credits. To meet these credits, eligible non-attorneys will have to view training guides and materials, including but not limited to PowerPoint presentations, or Webinars, on ethics, professional conduct, disability listings, etc. which SSA will make available on the Social Security Website. They will certify they have taken the training by sending us an email message acknowledging their completion of the training within a specified period as directed by us. The respondents are non-attorneys who want to receive direct payment of their fees for representational services before SSA.

3. Use of Information Technology to Collect the Information

The Statement of Work that will cover the contract for this project will state that the contractor must collect the information using a paper questionnaire form since a wet signature is required on the application. The paper form will be available for print on the contractor's Internet website. Applicants will mail or deliver the signed paper form to the contractor.

We expect 100 percent of eligible non-attorneys to view the continuing education credit training materials or guides on the internet and confirm the viewing with an email or other electronic message.

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 do not use the application, the applicants would have no way to apply to become eligible to receive direct payment. This would be in violation of regulations at *5 CFR 1320.5*. Applicants must timely submit their applications during the yearly application period within the time we prescribe. There are no technical or legal obstacles to burden reduction.

7. Special Circumstance

To limit the time required to determine eligibility, applicants have a prescribed period to submit their applications during the yearly application period. Applicants have 30 calendar days after the close of the application period to correct any application defects. There are no other 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 Interim Final Rule in the Federal Register Notice on July 28, 2011 at 76 FR 45184, and we received no public comments. SSA did not conduct outside consultations with members of the public.

9. Payment or Gifts to Respondents

SSA does not provide payments or gifts to the respondents for providing this information.

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 –

The projected number of new and existing respondents may vary because of the eligibility criteria for non-attorneys to receive direct payment. However, we

present the current burden information in the chart below:

Modality of Completion	Number of Respondents	Frequency of Response	Average Burden per Response (minutes)	Total Annual Burden (hours)
New Respondents – Paper Application (complete and submit) – 404.1717(b)&(c); 416.1517(b)&(c)	200	1	45	150
New Respondents Examination – 404.1717(a)(5); 416.1517(a)(5)	200	1	120	400
New Respondents - Submission of proof of Bachelor’s Degree or Equivalent Qualifications – 404.1717(a)(3); 416.1517(a)(3)	200	1	10	33
New and Existing Respondents - CE Submission via email/mail/or FAX of training courses taken as prescribed by SSA – 404.1717(a)(7); 416.1517(a)(7)	710	1	20	237
New and Existing Respondents - Proof of Continuous Professional or Business Liability Insurance Coverage (Scan and Email) – 404.1717(a)(6);	672	1	10	112

416.1517(a)(6)				
New and Existing Respondents - Proof of Continuous Professional or Business Liability Insurance Coverage (Copy and Mail) - 404.1717(a)(6); 416.1517(a)(6)	38	1	15	10
New and Existing Respondents - Written Protests – 404.1717(d); 416.1517(d)	45	1	45	34
Totals	2,065			976

The total burden for this ICR is 976 hours. This figure represents burden hours and we did not calculate a separate cost burden.

13. Annual Cost to the Respondents

This collection imposes a one-time application fee of \$1000 per applicant. Since we estimate approximately 200 applicants per year, the total annual cost to the applicants is \$200,000.

14. Annual Cost To Federal Government

The annual cost to the Federal Government is approximately \$500,000. This estimate is a projection of the cost of paying the contractor who is responsible for collecting the information and verifying respondents’ eligibility for the demonstration project.

15. Program Changes or Adjustments to the Information Collection Request –

The burden increase stems from the increase in the number of existing respondents and of the inclusion activities associated with the application process and continued eligibility for direct payment as a non-attorney representative. In addition, we will no longer collect the application electronically. The addendum provides detailed explanation about the change in the burden hours.

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.