

Supporting Statement for Form SSA-795-OP2
Statement of Claimant or Other Person-Medical Resident FICA Refund Claims
20 CFR 404.702, 20 CFR 416.570
OMB No. 0960-NEW

A. Justification

1. Introduction/Authoring Laws and Regulations

SSA is seeking emergency OMB approval for form SSA-795-OP2, the Statement of Claimant or Other Person-Medical Resident FICA Refund Claims, and its accompanying cover letters. Our legal authority to collect this information follows. Section 205(a) of the *Social Security Act* requires the Commissioner of the Social Security Administration (SSA) to request the proof needed to establish entitlement to benefits. Sections 20 CFR 404.702 and 416.570 of the *Code of Federal Regulations* discuss the need for signed statements in relation to claims for Social Security or Supplemental Security Income benefits.

2. Description of Collection

Background

The Internal Revenue Service (IRS) is contacting medical residents (and their employers) who filed Federal Insurance Contributions Act (FICA) refund claims from 1993 through 2005. These medical residents had claimed their residencies were actually training, not employment, and as such should not have been subject to FICA tax. The IRS decided to honor these claims and issue a full refund of FICA tax, plus statutory interest, to those who wish to participate in the refund resolution. As a result, SSA will remove wages from the participating residents' earnings records for the period of the refund requests.

SSA Collection of Information.

Because SSA will remove wages for the 1993-2005 period, the residents' recorded earnings will decrease. This will not only affect earnings for future retirement benefits, but could adversely affect those residents (or their beneficiaries) who are currently receiving Social Security benefits. To ensure the latter understand the potential impact on their benefits, SSA plans to contact them and explain the effect on their Social Security benefits if they accept the IRS FICA refund.

To document the residents' decision to accept or revoke the refund, SSA will send a cover letter and form SSA-795-OP2 to the residents to complete and sign. We expect to use the SSA-795-OP2 immediately upon approval and will continue to use it for approximately 1 year. This is a one-time information collection.

Interim Business Process

SSA will first call the residents and explain how accepting the refund will affect their Social Security benefits. SSA will then pre-fill form SSA-795-OP2 with the employer name and identification number on the form as well as the resident's name, SSA-795-OP2 (0960-NEW)

Social Security number, name of person making the statement, and relationship to the resident. We will need the resident to complete the following information:

- a. Resident's decision (check boxes for yes or no) to accept or decline the FICA refund; and
- b. Resident's signature, date signed, and mailing address.

We will ask residents to return the signed SSA-795-OP2 to SSA within five days after they receive the letter. If the residents decide to take the refund, SSA will remove the earnings from their earnings record (for the period of the refund) and will lower the residents' monthly benefit amount. We will fax the signed SSA-795-OP2 to the IRS to notify them of those residents who decided to revoke their request for the refund. SSA will maintain copies of all signed SSA-795-OP2 forms in our Non-Disability Repository for Evidentiary Documents.

The IRS committed to issuing FICA residents for the affected residents immediately. However, they have postponed issuing these refunds until we complete this information collection. Accordingly, we are requesting emergency OMB approval. We plan to pursue full OMB approval after receiving emergency clearance.

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

This form will be available in paper and as a print-only PDF on SSA's website. SSA will store a copy of the signed form in the Non-Disability Repository for Evidentiary Documents (NDRED) for our records. SSA did not create an electronic version of form SSA-795-OP2 under the agency's Government Paperwork Elimination Act (GPEA) plan because we only an estimate 496 respondents will complete the form. This is less than the GPEA cut-off of 50,000.

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**

SSA will use the SSA-795-OP2 to collect information to help medical residents decide if they should accept a FICA refund. If SSA did not collect this information, we could not document residents' decisions or prevent these earnings from dropping off their earnings records. Because we only collect the information once, 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**
The Emergency Federal Register Notice published on March 31, 2011 at 76 FR 17978, and SSA received no public comments. If we receive any comments in response to the 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**
Approximately 496 respondents will use Form SSA-795-OP2. The estimated average completion time is 4 minutes per form, for a total annual burden of 33 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 \$11,789. This estimate is a projection of the costs for printing and distributing the collection instrument and for collecting the information.
15. **Program Changes or Adjustments to the Information Collection Request**
This new form increases 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)*.

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- B. Collection of Information Employing Statistical Methods**
SSA will not use statistical methods for this information collection. __