



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

Dear Mr. Herms:

The Social Security Administration (SSA) is requesting emergency clearance for Form SSA-795-OP2, Statement of Claimant or Other Person—Medical Resident FICA Refund Claims. The background, information collection/business process description, and justification for requesting emergency clearance follow.

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 pre-fill the employer name and identification number on the form as well as the resident's name, 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.

Need for Emergency Clearance

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. To enable quick rollout of this business process, we are requesting OMB clearance two weeks from today, **Thursday, April 14.**

Please contact me with questions at 410-965-8783 or faye.lipsky@ssa.gov.

Sincerely,

Faye I. Lipsky
Reports Clearance Officer
Social Security Administration