

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. 0960-0786

A. Justification

1. Introduction/Authoring Laws and Regulations

SSA is seeking OMB approval to extend the use of form SSA-795-OP2, 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

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. Those medical residents who claimed their residencies were actually training, not employment, should not have been subject to FICA tax. The IRS made a decision 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. SSA will remove wages from the participating residents' earnings records for the period of the refund requests, which will cause the residents' recorded earnings to decrease. This not only affects earnings for future retirement benefits, but also could adversely affect those residents (or their beneficiaries) who are currently receiving Social Security benefits.

To ensure they understand the potential impact on their benefits, SSA will contact those residents who will be adversely affected 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 call the residents and explain how accepting the refund will affect their Social Security benefits. We will then mail Form SSA-795-OP2 to each resident to sign and return to SSA. If SSA cannot reach the resident by phone, we will send a contact letter and the SSA-795-OP2 to the resident to complete and return to SSA. Once we have the information, we will forward the signed forms to the IRS for the residents who no longer want the FICA refund. The respondents are medical residents, their survivors, next of kin, or representative payees who filed Federal Insurance Contributions Act (FICA) refund claims from 1993 through 2005. We previously obtained emergency clearance, this is a full extension of that emergency request, and we are not making any changes from the emergency clearance version.

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

Form SSA-795-OP2 is 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 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 only an estimated 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**

If we did not use Form SSA-795-OP2, we would not be able to 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 60-day advance Federal Register Notice published on July 13, 2011, at 76 FR 41320, and we received no public comments. The 30-day FRN published on September 23, 2011 at 76 FR 59180. If we receive any comments in response to this Notice, we will forward them to OMB.

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 take 4 minutes each to complete Form SSA-795-OP2 each year. Accordingly, the burden is 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**

There are no changes in 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).

B. Collection of Information Employing Statistical Methods

SSA will not use statistical methods for this information collection. __