

Supporting Statement for Form SSA-1691
Social Security Administration Eligible Non-Attorney Representative
20 CFR 404.1717, 404.1745 - 404.1799, 416.1517, and 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 at least four years of relevant professional experience and either a high school diploma or General Education Development (GED) certificate;
- Pass a written examination that the Social Security Administration (SSA) writes and administers which tests the knowledge of the relevant provisions of the *Social Security Act (Act)* and the most recent developments in SSA and court decisions affecting the benefit programs under Titles *II* and *XVI* of the *Act*;
- Secure and maintain continuous 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 ongoing 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 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 of the *Code of Federal Regulations*.

2. Description of Collection

The information we collect helps us determine whether an applicant fulfilled the statutory prerequisites and regulatory requirements as listed in item number 1

above. To verify this information, we 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 evaluates the applications, conducts verification investigations, and issues 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 view training guides and materials, including but not limited to PowerPoint presentations, or Webinars, on ethics, professional conduct, disability listings, etc. which SSA makes available on the Social Security Website. These non-attorneys certify they took the training by sending us an email message acknowledging their completion of the training within a specified period as we directed. 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

We did not create an electronic version of this information collection under the Government Paperwork Elimination Act, as the Statement of Work states the contractor must collect the information using a paper questionnaire form since we require a wet signature on the application. SSA made the paper form available for print on the contractor's Internet website. However, applicants need to print it out, complete the form, and mail or deliver the signed paper form to the contractor.

4. Why We Cannot Use Duplicate Information

The nature of the information we collect and the manner in which we collect 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 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 *20 CFR 404.1717*. Since the applicants must submit their applications during the yearly application period within the time we prescribe, we cannot collect the information less frequently. There are no technical or legal obstacles to burden reduction.
7. **Special Circumstance**
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 February 21, 2017, at 82 FR 11293, and we received no public comments. The 30-day FRN published on May 5, 2017 at 82 FR 21291. 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**

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)	200	1	120	400

(5); 416.1517(a)(5)				
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); 416.1517(a)(6)	672	1	10	112
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 (Other)

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 \$200,000. This estimate is a projection of the cost of paying the contractor who is responsible for collecting the information and verifying respondents' eligibility for non-attorneys to take the examination to become eligible for direct payment of fees.

15. Program Changes or Adjustments to the Information Collection Request

There are no changes to 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

OMB granted SSA an exemption from the requirement to print the OMB expiration date on its program forms. SSA produces millions of public-use forms with life cycles exceeding those of an OMB approval. Since SSA does not periodically revise and reprint its public-use forms (e.g., on an annual basis), OMB granted this exemption so SSA would not have to destroy stocks of otherwise useable forms with expired OMB approval dates, avoiding Government waste.

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 does not use statistical methods for this information collection.