

**Supporting Statement for  
Evidence From Excluded Medical Sources of Evidence (RIN 0960-AH92)  
20 CFR 404.1503b and 416.903b  
OMB No. 0960-0803**

**A. Justification**

**1. Introduction/Authoring Laws and Regulations**

The *Bipartisan Budget Act of 2015 (BBA)*, Section 812 (“Exclusion of certain medical sources of evidence”) mandates that the Social Security Administration (SSA) exclude evidence in disability decisions from certain medical sources. *BBA* Section 812 amended section 223(d)(5) of the *Social Security Act (Act)* by adding a subsection “C.”

Section 223(d)(5)(C)(i) of the *Act*, as amended, requires SSA to exclude evidence (except for good cause) from medical sources: (1) convicted of a felony under Sections 208 or 1632 of the *Act*; (2) excluded from participating in any Federal health care program under section 1128 of the *Act*; or (3) imposed with a civil monetary penalty (CMP), assessment, or both, for submitting false evidence, under Section 1129 of the *Act*.

Pursuant to its broad authority to regulate under Sections 205(a), 702(a)(5), and 1631(d)(1) of the *Act*, SSA implemented Section 223(d)(5)(C), as amended, through regulations at 20 CFR 404.1503b and 416.903b of the *Code of Federal Regulations*. These regulations require excluded medical sources to self-report their excluded status, in writing, each time they submit evidence related to a claim for benefits under *Titles II* or *XVI* of the *Act*. Excluded medical sources’ duty to self-report their excluded status apply to evidence they submit to SSA directly, or through a representative, claimant, or other individual or entity.

**2. Description of Collection**

The following regulatory sections describe and contain the public reporting burdens for this collection:

- **20 CFR 404.1503b** – This regulatory section requires sources excluded by section 223(d)(5)(C)(i) of the *Act*, as amended, to self-report their exclusion, in writing, each time they submit evidence related to a claim for initial or continuing benefits under *Titles II* or *XVI* of the *Act*. This duty applies to evidence submitted to SSA directly, or through a representative, claimant, or other individual or entity. In their written self-report, all excluded medical sources must include: (1) the heading, “WRITTEN STATEMENT REGARDING SECTION 223(d)(5)(C) OF THE SOCIAL SECURITY ACT – DO NOT REMOVE[,]” (2) their name and title, and (3) the applicable excluding event (i.e., felony conviction under sections 208 or 1632; section 1128 exclusion; or CMP, or assessment (or both), under section 1129 for submitting false evidence). Felons must also include their

date of conviction. Those imposed with a CMP, assessment, or both, must provide the date(s) of imposition. Sources excluded under section 1128 must include: (1) the basis of their exclusion, (2) its effective date, and anticipated length, and (3) whether the Department of Health & Human Services' Office of Inspector General (HHS' OIG) waived it. There is no form for this request. Excluded medical sources create their own written statement, within the regulatory parameters, and submit it to SSA or State Disability Determination Services (DDS) employees. They do not need information from someone else to create the written statement. No one may remove an excluded medical source's written report of exclusion. SSA may also ask excluded medical sources to provide additional information or clarify already-provided information.

- **20 CFR 416.903b** – This regulatory section requires sources excluded by section 223(d)(5)(C)(i) of the *Act*, as amended, to self-report their exclusion, in writing, each time they submit evidence related to a claim for initial or continuing benefits under *Titles II* or *XVI* of the *Act*. This duty applies to evidence submitted to SSA directly, or through a representative, claimant, or other individual or entity. In their written self-report, all excluded medical sources must include: (1) the heading, “WRITTEN STATEMENT REGARDING SECTION 223(d)(5)(C) OF THE SOCIAL SECURITY ACT – DO NOT REMOVE[,]” (2) their name and title, and (3) the applicable excluding event (i.e., felony conviction under sections 208 or 1632; section 1128 exclusion; or CMP or assessment (or both) under section 1129 for submitting false evidence). Felons must also include their date of conviction. Those imposed with a CMP, assessment, or both, must provide the date(s) of imposition. Sources excluded under section 1128 must include: (1) the basis of their exclusion, (2) its effective date, and anticipated length, and (3) whether the Department of Health & Human Services' Office of Inspector General (HHS' OIG) waived it. There is no form for this request. Statutorily excluded medical sources create their own written statement, within the regulatory parameters, and submit it to SSA or State agency (DDS) employees. They do not need information from someone else to create the written statement. No one may remove an excluded medical source's written report of exclusion. SSA may also ask excluded medical sources to provide additional information or clarify already-provided information.

We inform the medical sources we suspect should be excluded of these requirements through a Fact Sheet we send to them, or through our Website. In addition, we provide sample statements as templates the affected medical sources can use to create their own written statements. The respondents for this collection are medical sources that: (1) meet one of the exclusionary categories set forth in Section 223(d)(5)(C)(i) of the *Act*, as amended; (2) furnish evidence related to a claim for benefits under *Titles II* or *XVI* of the *Act*; and (3) had failed to self-

identify as an excluded source of medical evidence as required in Section 223(d)(5)(C)(i).

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

Respondents must append a statement in compliance with regulations to the front of any medical evidence they submit. As such, in information collections where respondents could submit their medical evidence electronically, they can also submit the statement required under 0960-0803 electronically. Because the statement is tied directly to the submitted medical evidence, it is not appropriate to provide a separate mechanism for submitting this information collection.

**4. Why We Cannot Use Duplicate Information**

The nature of the information we collect and the manner in which we collect it precludes duplication. SSA does not use another collection instrument to obtain similar data.

**5. Minimizing Burden on Small Respondents**

The collection does not significantly affect small businesses or other small entities.

**6. Consequences of Not Collecting Information or Collecting it Less Frequently**

Without providing the information requested in *20 CFR 404.1503b* and *416.903b*, medical sources excluded under section *223(d)(5)(C)(i)* of the *Act*, as amended, will not meet their regulatory requirement to self-report their excluded status, in writing, each time they submit evidence related to a claim for benefits under *Titles II* or *XVI* of the *Act*. Because we have no other way to collect the information, we cannot collect it less frequently. There are no technical or legal obstacles to burden reduction.

**7. Special Circumstances**

Because we have no other way to collect the information, we require medical sources excluded under section *223(d)(5)(C)(i)* of the *Act*, as amended, to self-report their excluded status, in writing, each time they submit evidence related to a claim for initial or continuing benefits under *Titles II* or *XVI* of the *Act*. As such, we may require affected medical sources to self-report their excluded status more often than on a quarterly basis. We may also require these affected medical sources to prepare a written response to this information collection in fewer than 30 days after receipt of it.

**8. Solicitation of Public Comment and Other Consultations with the Public**

The 60-day advance Federal Register Notice published on June 4, 2019, at 84 FR 25891, and we received no public comments. The 30-day FRN published on August 13, 2019 at 84 FR 40121. 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**

This information collection does not contain any questions of a sensitive nature.

**12. Estimates of Public Reporting Burden**

<b>Regulation Section(s)</b>	<b>Number of Respondents</b>	<b>Frequency of Response</b>	<b>Number of Responses</b>	<b>Average Burden Per Response (minutes)</b>	<b>Estimated Total Annual Burden (hours)</b>
404.1503b(c) 416.903b(c)	50	60	3,000	20	1,000

SSA estimates roughly fifty individuals each year submit medical evidence to the agency without initially identifying themselves as excluded sources of medical evidence. For each excluded source, SSA conservatively estimates that he or she may have up to sixty patients for whom he or she provided medical evidence that SSA is considering in some portion of the disability application or appeals process. Therefore, SSA estimates that there are approximately 3,000 annual responses to this information collection.

The total burden for this ICR is **1,000** hours. We based this figure on current management information data. This figure represents burden hours, and we did not calculate a separate cost burden.

**13. Annual Cost to Respondents (Other)**

This collection does not impose a known cost burden on the respondents.

**14. Annual Cost to Federal Government**

The annual cost to the Federal Government is approximately \$47,679. This estimate accounts for costs from the following areas: (1) designing, printing, and distributing the form; and (2) SSA employee (e.g., field office, 800 number, DDS staff) information collection and processing time.

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

There are no changes to the public reporting burden.

**16. Plans for Publication of Information Collection Results**

SSA will not publish the results of the information collection.

**17. Displaying the OMB Approval Expiration Date**

For the paper fact sheet, we will not publish the OMB approval expiration date. OMB granted 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 dates, avoiding Government waste.

SSA is not requesting an exception to the requirement to display the OMB approval expiration date on the public webpage containing information related to Section 223(d)(5)(C) of the *Act*, as amended.

**18. Exception 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.