

**Supporting Statement for Form SSA-561-U2**  
**Request for Reconsideration**  
**20 CFR 404.907-404.921, 416.1407-416.1421, 418.1009, and 418.1325**  
**OMB No. 0960-0622**

**A. Justification**

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

Section 205(b)(1) of the *Social Security Act (Act)* states that the Social Security Administration (SSA) provides an evidentiary hearing at the reconsideration level of appeal. Upon request by any such individual, or upon request by applicants who show in writing that SSA disadvantaged their rights, the Commissioner shall give such applicant reasonable notice and an opportunity for a hearing with respect to such decision. In addition, if SSA holds a hearing, SSA shall, based on the evidence adduced at the hearing, affirm, modify or reverse the Commissioner's findings of the fact and such decision.

SSA extends this hearing process to comparable cases under *Title XVI* of the *Act* in 20 *CFR* 404.907 through 404.921, and 416.1407 through 416.1421 of the *Code of Federal Regulations (Code)*. In addition, section 251(a) of *Public Law 106-169* creates a new *Title VIII, Section 809 (a)(1)* of this Title, and extends this hearing process to comparable cases under *Title VIII*.

Section 1869(b) of the *Act* states that any individual, who is dissatisfied with an initial determination regarding Medicare entitlement, benefits, or coverage, is entitled to a reconsideration of that determination. *Section 105(a)(2)(B)* of *Public Law 103-296* (the *Social Security Independence and Program Improvements Act*, which established SSA as an independent agency) stipulates that SSA and the Department of Health and Human Services (HHS) would share responsibility for the Medicare (*Title XVIII*) appeals process. The process provided for under this statute states that SSA would continue to perform the hearings function for determinations made by SSA about Medicare Part A and Part B entitlement. As required by the *Public Law 103-296*, SSA and HHS continued to negotiate transfer of some of the Medicare appeals functions; in 1995, the two agencies signed an agreement, which transferred to the Medicare Appeals Council within HHS the Medicare appellate review functions that the SSA Appeals Council performs. *Section 931* of *Public Law 108-173* required transfer of the functions of administrative law judges (ALJs) responsible for hearing appeals under *Title XVIII* of the *Act* from SSA to HHS. However, SSA continues to conduct reconsiderations of initial determinations regarding Medicare entitlement. Additionally, since January 2007, SSA makes the determinations regarding Medicare Part B income-related monthly adjustment amount (IRMAA) required under section 1839(i) of the *Act (Public Law 108-173)*. Consistent with the procedure for Medicare entitlement issues, SSA will conduct reconsiderations of initial determinations as provided in 20 *CFR* 418-1325 of the *Code*.

20 CFR 404.1713 and 416.1513 of the Code mandate that claimant representatives use our electronic services at the times and in the manner we prescribe on matters for which they request direct fee payment. The *Requiring Electronic Filing of Appeals for certain Representatives Federal Register Notice* mandates claimants representatives who file a reconsideration request on a client's behalf and request direct fee payment on the matter use the i506.

2. **Description of Collection**

Claimants, recipients, and beneficiaries use Form SSA-561-U2; the associated Modernized Claims Systems (MCS) or Supplemental Security Income (SSI) Claims Systems interview; or the iAppeals Internet application (i561) to initiate a request for reconsideration of an initial determination. SSA employees use the information to document the request and to determine an individual's eligibility or entitlement to Social Security benefits (*Title II*); SSI payments (*Title XVI*); Special Veterans Benefits (*Title VIII*); Medicare (*Title XVIII*); and for initial determinations regarding Medicare Part B income-related premium subsidy reductions. The respondents are claimants, recipients, and beneficiaries filing for reconsideration of an initial determination.

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

In accordance with the agency's Government Paperwork Elimination Act plan, SSA created an Internet version of form SSA-561-U2, the i561 for medical and non-medical reconsideration request, as part of our iAppeals application. Based on our data, we estimate approximately 62% of respondents under this OMB number use the electronic version. Respondents who wish to file a request for reconsideration may do so using an Internet version of the SSA-561-U2, the i561, through our iAppeals application. Information from the i561 medical reconsideration request propagates into SSA's MCS and the SSI Claims System. For non-medical reconsideration requests, technicians transfer the information to MCS and the SSI Claims System. The collection instrument is also available through MCS and the SSI Claims System to respondents who file a request for reconsideration by mail or through a personal interview in a field office.

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

The nature of the information SSA collects 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**

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-561-U2, or the electronic versions (MCS, the SSI Claims System, and the i561), the public would not be able to explain their reasons for requesting reconsideration including recent information in the evaluation or having SSA's determination of the Medicare Part B income-related

monthly adjustment amount reconsidered. Therefore, we cannot collect the information less frequently. There are no technical or legal obstacles that prevent 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 3, 2019, at 84 FR 31972, and we received the following public comments:

- *Comment:* The commenter criticized our time estimates for the Internet applications, i501 (0960-0269) and i561, stating that the estimates we provide are a severe underestimate, and claiming that respondents need to complete the i501/i561, as well as input background information and medical information. The commenter also cited our “Getting Ready” section that states, “This appeal may take 60 minutes or longer to complete.” In addition, the commenter stated that, while additional information about the claimant’s medical treatment, medications, functional limitations, activities, education, and training may have practical utility, SSA should not require this information to request a reconsideration or ALJ hearing. The commenter believes that SSA should only request the information on the i501 and i561 that we include on the paper forms, and not require any additional information in the iAppeals System.
  - *SSA Response:* The time estimates we provide for the appeals forms are for completion of Forms SSA-561/i561 (0960-0622) and HA-501/i501 (0960-0269) only. The paper Form SSA-561 and paper Form HA-501 take longer to complete because claimants must write in rather than type in their responses to the questions on the form. Claimants submit the SSA-561/i561 or HA-501/i501 when they appeal a decision on a non-disability or disability issue. While our general policy states that a claimant can submit additional evidence along with the SSA-561/i561 or HA-501/i501, it is not a requirement for non-disability appeals. However, the disability policy includes specific requirements on collecting additional evidence when a claimant files an appeal, including the submission of Form SSA-3441/i3441 (OMB #0960-0144). Our time estimates for the SSA-561/i561 and HA-501/i501 does not include the time it takes to complete the SSA-3441/i3441, or the submission of evidence required for that form. For the SSA-3441/i3441, we include the remaining time estimate shown in iAppeals in the PRA Statement on the screens for the i3441, and within the burden data we provide for the SSA-3441/i3441 under its unique OMB Control Number (0960-0144). The time estimate for the SSA-3441/i3441 in combination with the time estimate for the

SSA-561/i561 or HA-501/i501 brings the total estimated time for an iAppeals request to approximately 60 minutes. As stated in our iAppeals Terms of Service, and by staff in the field office to those using our paper appeals process, we ask respondents who choose to fill out the paper forms to complete the SSA-3441 as well, at the time of appeal. However, simultaneous submission of the SSA-3441 with the SSA-501 (or SSA-561) is not required in the paper appeals process. For iAppeals submissions, we require the i3441 before we can process a request for reconsideration or request for an ALJ hearing using the electronic appeals process.

- *Comment:* The commenter stated that SSA is not in compliance with our regulations regarding our electronic, iAppeals process. The commenter suggested that SSA should state in our iAppeals system that a paper process exists; provide a link to the pdf version of the appropriate paper form; and explain how the respondents can submit the paper forms. The commenter mentioned that this would still not make the electronic process compliant with regulations, but would better inform claimants about their options.
  - *SSA's Response:* Our regulations provide that claimants who seek reconsideration or a hearing may do so by filing a “written request” within 60 days of the date they receive notice of our determination. These regulations give us the authority to establish mechanisms by which a claimant can file the “written request” to appeal a determination. We explained this interpretation of our regulations in Social Security Ruling (SSR) 19-3p, *Requesting Reconsideration or Hearing by an Administrative Law Judge*, which we published in the Federal Register on August 14, 2019, at 84 FR 40467.

Through SSR 19-3p, we explained our policy that a claimant may file a “written request” for appeal using either the paper-based appeals process, or our iAppeals system. The SSR explains several things, including that claimants who choose to use iAppeals to request an appeal must complete the full electronic appeals application to file the appeal electronically. Completing the full electronic appeal application requires claimants to answer questions from both the standard appeals request forms (SSA-561/i561 and HA-501/i501) and the disability report form (SSA-3441/i3441). However, iAppeals offers several flexibilities for claimants, as it: permits claimants to leave questions blank if they are not applicable; allows claimants to indicate they need additional time to collect specific evidence; and enables claimants to partially complete an electronic appeal application and save it to return to finish it later (so long as they return and submit it within the regulatory appeal period). Claimants must file their appeals, whether using the paper or electronic appeals process, within the 60-day regulatory appeals period.

While there are some differences between our paper and electronic appeals options for filing a request for reconsideration or hearing, the substantive standards we use to evaluate a claimant’s appeal request remain the same regardless of the option the claimant chooses to use to submit the appeal.

In response to the request that we include information about the paper process on our iAppeals screens, the iAppeals “Getting Ready” Screen, “More Information” Section includes the “Other Ways to Complete a Disability Appeal” link. The “Other Ways to Complete a Disability Appeal” Screen provides information on how to determine the appeal level; how to obtain the PDF or paper versions of the forms; and where to submit the appeals forms. The page also links to the Forms page, which includes the forms claimants need to file their appeals. The Terms of Service also explains other ways for claimants to file their appeals.

- *Comment:* The commenter noted that the words “information” and “question” are misspelled in the “Follow-up” section on page 1 of the screenshots, and that the text switches from second person to third person (“After you are finished...The claimant can log in”). The commenter stated that the switch from second to third person is confusing.
  - o *SSA Response: SSA Response:* The words “question” and “information” were misspelled on the screen shots for the Getting Ready Screen – Follow-up Section in the version we submitted. However, these words are spelled correctly on the iAppeals Getting Ready Screen – Follow-up Section accessed by our claimants. We have already corrected the misspelling. In addition, we also corrected the issue with the use of second and third person tenses on our accessible iAppeals screens.
- *Comment:* The commenter expressed concern over the wording of our new Terms of Service (TOS), stating that SSA should not list all of the items we list as requirements for completing iAppeals, and that SSA’s new TOS indicates that claimants cannot complete their appeals electronically if they did not have all of the information stated in the TOS.
  - o *SSA Response:* The purpose of the TOS is to ensure that claimants know and understand the information they will need to complete their appeals electronically. However, not having that information does not prevent claimants from filing their appeals electronically. The TOS – I Acknowledge – Reconsideration and Hearing Sections explain what actions claimants can take if they do not have all of the information for their appeals. The TOS - If you do not wish to complete your appeal section also provides other ways for claimants to file an appeal when they do not

have the information they need to file their appeals electronically within the 60-day appeal period or do not want to file their appeals electronically.

- *Comment:* The commenter included concerns over the medical information we listed in the checklist on p.57 of the i501 screen shots, and p.56 of the i561 screen shots. The commenter believes we should not include this information as “information you need to complete your disability appeal” as it is not required by regulation. Rather, SSA should explain on the iAppeals screens that medical information is not necessary, but, if the respondents do not provide it, SSA’s decision is more likely to be a denial of the request. In addition, the commenter also stated that the checklist is numbered incorrectly.
  - *SSA Response:* The “Information You Need To Complete Your Disability Appeal” section has been a part of iAppeals from the beginning. As of this update, the only difference is that claimants have the option to print the checklist. The printed checklist will allow claimants to keep track of evidence as they gather it.

The comments also stated that the numbering on the screenshot of the checklist was inaccurate. The checklist available to the public is not numbered.

- *Comment:* The commenter stated that the screens shots do not explain which, if any, of the fields in the “medical” or “activities/training” section are mandatory. In addition, the commenter stated that, since the regulations do not require this information for appeal, SSA should not require any of these fields, and the screens should explain that this information is optional.
  - *SSA Response:* The medical and activities/training fields are part of the SSA-3441/i3441 (OMB #0960-0144) and are not covered under the SSA-561/i561 or HA-501/i501. However, *SSR 19-3p* states that claimants who choose to use iAppeals to request an appeal must complete the full electronic appeal application to file the appeal electronically. Completing the full electronic appeal applications requires claimants to answer questions from both the standard appeal request form (SSA-561/i561 or HA-501/i501) and the disability report form (SSA-3441/i3441). However, iAppeals offers several flexibilities for claimants, as it: permits claimants to leave questions blank if they are not applicable; allows claimants to indicate they need additional time to collect specific evidence; and enables claimants to partially complete an electronic appeal application and save it to return to finish it later (so long as they return and submit it within the regulatory appeal period). Claimants must file their appeals, whether using the paper or electronic appeals process, within the 60-day regulatory appeals period.

- *Comment:* The commenter made the following suggestions for improving our Re-entry Screen for iAppeals Disability requests:
  - Explain and provide a deadline date for filing the appeal.
  - Explain filing a late appeal, and writing, and providing a good cause statement if the appeal is not filed within the 60-day appeal period
  - *SSA Response:* We will consider these suggestions and share them with internal stakeholders. However, implementation of the suggestions depends on viability, internal stakeholder consensus, and resources.
  
- *Comment:* The commenter made the following suggestions for improving our Identification (3<sup>rd</sup> party applicant) Screen for iAppeals Disability requests:
  - Provide an example sentence that uses the word gender. An example will help claimants understand the purpose of the question.
  - *SSA Response:* We will consider this suggestion and share it with internal stakeholders. However, implementation of the suggestion depends on viability, internal stakeholder consensus, and resources.
  
- *Comment:* The commenter made the following suggestions for improving the iAppeals Information about the applicant Screen for non-medical appeals:
  - Add the words “or beneficiary” because a person filing a non-medical appeal may already be receiving benefits.
  - *SSA Response:* We will consider this suggestion and share it with internal stakeholders. However, implementation of the suggestion depends on viability, internal stakeholder consensus, and resources.
  
- *Comment:* The commenter made the following suggestions for improving the Notice Information Screen for non-medical appeals:
  - Clarify the questions in order to provide additional guidance concerning the claimants to the appropriate appeal level.
  - *SSA Response:* We will consider this suggestion and share it with internal stakeholders. However, implementation of the suggestion depends on viability, internal stakeholder consensus, and resources.

The 30-day FRN published on September 16, 2019 at 84 FR 48694. If we receive any comments in response to this Notice, we will forward them to OMB.

We consulted with five advocacy group participants for two iAppeals Single Submission Conference Calls and meetings regarding current the iAppeals Internet application. We asked these advocacy groups for their concerns related to the single

submission practice for iAppeals, which OMB approved in March 2015. During the conference calls and meetings, the advocacy participants shared their experiences illustrating the practical challenges they encountered using iAppeals since the implementation of single submission. They also expressed concerns regarding the single submission practice. Based on their feedback, SSA agreed to continue internal discussions on ways to improve the iAppeals application, including improvements to the single submission practice.

**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)	Estimated Total Annual Burden (hours)	Average Theoretical Hourly Cost Amount (dollars)*	Total Annual Opportunity Cost (dollars)**
SSA-561 and Modernized Claims System (MCS)	330,370	1	8	40,049	\$10.22*	\$409,301**
I561 (Internet iAppeals)	1,161,300	1	5	96,775	\$10.22*	\$989,041**
<b>Totals</b>	<b>1,461,670</b>			<b>136,824</b>		<b>\$1,398,342**</b>

\* We based this figure on average DI payments, as reported in SSA’s disability insurance payment data.

\*\* This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. **There is no actual charge to respondents to complete the application.**



The total burden for this ICR is **136,824** burden hours (reflecting SSA management information data), which results in an associated theoretical (not actual) opportunity cost financial burden of **\$1,398,342**. SSA does not charge respondents to complete our applications.

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

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

14. **Annual Cost to the Federal Government**

The annual cost to the Federal Government is approximately \$819,160. This estimate accounts for costs from the following areas: (1) designing, printing, and distributing the form; (2) SSA employee (e.g., field office, 800 number, DDS staff) information collection and processing time; and (3) systems development, updating, and maintenance costs.

15. **Program Changes or Adjustment 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**

For the paper Form SSA-561-U2, SSA will not publish 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 the OMB approval date. Since SSA does not periodically (e.g., on an annual basis), revise and reprint its public-use forms, OMB granted this exemption so SSA would not have to destroy stocks of otherwise useable forms with expired OMB approval dates, thereby avoiding Government waste.

For the internet application, i561 (iAppeals), SSA is not requesting an exception to the requirement to display the OMB approval expiration date.

18. **Exemption 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.