

**Justification for Non-Substantive Changes for Disability Case Development
Information Collections By State Disability Determination Services On Behalf Of
The Social Security Administration**

**20 CFR, Subpart P, 404.1503a, 404.1512, 404.1513, 404.1514, 404.1517, 404.1519; 20
CFR Subpart Q, 404.1613, 404.1614, 404.1624; 20 CFR, Subpart I, 416.903a,
416.912, 416.913, 416.914, 416.917, 416.919; and 20 CFR Subpart J, 416.1013,
416.1024**

OMB No. 0960-0555

Background

As we mentioned in our previous Change Request for 0960-0555, which OMB approved on 4/30/20, due to the current situation with COVID-19, HHS temporarily relaxed enforcement of the HIPAA privacy rules to allow use of popular applications that allow video chats (e.g., FaceTime, Skype) to provide telehealth services without risk of penalty for noncompliance during the emergency period.

Prior to this amendment, only a few of the state Disability Determination Services (DDS) conducted psychological consultative examinations (CEs) via video, and they used only the SSA secure system. Our non-emergency guidance on video teleconferencing requires the DDSs who conduct psychological CEs via video to use secure broadband connections to maintain claimant privacy. In light of the current need to help the public remain in compliance with stay at home orders, we amended our guidance to the DDSs to permit CE providers to use noncompliant video technology to conduct psychiatric or psychological examinations if the client agrees to accept the associated privacy risk (within the Change Request OMB approved on 4/30/20).

To accomplish this, we created a call script to explain the non-secure technology to claimants. We now offer it as an option to claimants, and include a waiver for those who need a psychiatric or psychological CE (without testing) that requires acknowledgement and agreement that they:

- Are willing to participate in an exam with a CE provider via the chosen non-secure technology option;
- Understand they may change their mind at any time about attending a CE using video technology, and that doing so may delay but will not otherwise negatively impact their claim; and
- Acknowledge the means used may not be secure, and agree to proceed with the exam using such technology.

Once we have the claimants' acknowledgement and agreement, we document their files with that agreement.

Since we implemented this call script, the DDSs have noted that some claimants would prefer to have this information in writing. To that end, we developed a notice for DDSs to send to claimants which includes the same information we provide in our call script, but allows the claimant to respond via mail, if they so choose. We are still accepting this information via telephone, even if the claimant requests that we send them the notice containing this information.

Since the notice mirrors the call script information, we hope to implement the use of the notice upon OMB’s approval. We will discontinue use of this notice once the emergency period ends.

Revisions to the Collection Instrument

- **Change #1:** We developed a template of a notice which the DDSs may choose to send to claimants to obtain consent for participation in a video CE, in lieu of the required script that we currently read over the phone. The notice template mirrors our call script, and includes a series of questions for the claimants to acknowledge understanding of the risks, and their willingness to participate in a video CE. The notice will request claimants check “yes” or “no” to answer these questions.

Justification #1: Due to the COVID-19 situation, we cannot schedule our current in-person psychiatric and psychological examinations, nor do all of our CE providers have access to HIPAA-compliant video technology for remote exams. To ensure we can still hold necessary examinations for claimants, we implemented the new call script to allow for the use of non-secure technologies during an emergency period when HHS has relaxed enforcement of the HIPAA privacy rule. Use of the letter template will be optional for the DDSs, so we do not expect it to be used for every claimant. The DDSs will send the letter only once to each claimant for whom staff opt to use the template. Staff will use the template for psychiatric and psychological CEs that do not require testing, and only during the COVID-19 national health emergency.

Updated Burden Information

We expect it will take approximately 5 minutes for an individual to read the letter, write in the requested information, and mail the completed document. We anticipate an equal burden for reading the script over the phone and for mailing the letter. Consequently, the burden for this collection remains as follows:

CE Claimant Telehealth CE Call Script/Letter

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)**
CE Claimant Telehealth Call Script/Letter	10,000	1	5	833	\$10.73*	\$8,938**

* We based this figure on average DI payments, as reported in SSA’s disability insurance payment data (<https://www.ssa.gov/legislation/2020Fact%20Sheet.pdf>).

** 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 the information collection request remains at **4,501,999 hours**.