

Supporting Statement for Form HA-L90
Request to Show Cause for Failure to Appear
20 CFR 404.938, 20 CFR 416.1438, and 20 CFR 404.957(b)(i) and (ii)
OMB No. 0960-0794

A. Justification

1. Introduction/Authoring Laws and Regulations

Sections 205, 1631(d)(1) and 1872 of the *Social Security Act* provide the authority for the Social Security Administration (SSA) to collect the information requested on Form HA-L90. Sections 20 CFR 404.938, 416.1438, and 404.957(b)(i) and (ii) of the *Code of Federal Regulations* set forth the procedures and policies for implementing these regulations.

2. Description of Collection

When claimants who request a hearing before a judge fail to appear at their scheduled hearing, the judge may reschedule the hearing if the claimants establish good cause for missing the hearing. To establish good cause, following: (1) SSA did not properly notify the claimant of the hearing, or (2) an unexpected event occurred without sufficient time for the claimant to request a postponement. The claimants can use paper Form HA-L90 or HA-L90-OP1 to provide their reason for not appearing at their scheduled hearings; or the claimants' representatives can use Electronic Records Express (ERE), OMB Control No. 0960-0753, to submit the forms online. SSA uses the HA-L90 for new cases, and the HA-L90-OP1 for redeterminations cases. We need two versions of the paper form, as the judge follows different procedures when determining the good cause on redetermination cases (cases that have a prior decision and evidence on file), than they do for new cases (where we have no evidence on file). If the judge determines the claimants established good cause for failure to appear at the hearing, the judge will schedule a supplemental hearing; if not, the judge will make a claims eligibility determination based on the claimants' evidence of record. Respondents are claimants, or their representatives, seeking to establish good cause for failure to appear at a scheduled hearing before an judge.

3. Use of Information Technology to Collect the Information

This collection does not currently have a fully public-facing Internet version, as we prioritized other information collections for full electronic conversions. As per our 4/3/20 conversation with OIRA, we welcome OIRA to join our conversations with OMB on IT Mods; however, as our IT Mod programming is an ongoing project, we cannot provide timelines for when we will be able to make any particular ICR available via the Internet. We will convert existing ICRs to full electronic versions depending on how they fall within our overall IT Mod schema, but this is unconnected to the PRA approval lifecycle. While the agency has plans to convert this form to a submittable PDF, we have not, yet, scheduled that conversion. However, claimants who appoint a representative may have their appointed representatives submit a completed Form HA-L90 or HA-L90-OP1 via

ERE. Based on our data, we estimate approximately 80% of claimants have appointed representatives who submit their forms through ERE.

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 collect similar data.

5. Minimizing Burden on Small Respondents

This collection does not affect small businesses or other small entities.

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

To comply with Federal law, SSA must collect the information on these forms. If SSA did not collect the information when necessary, the judge would dismiss the claimant's case when the claimant did not appear at their scheduled hearing. Since we only collect this information on an as needed basis, 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 February 4, 2021 at 86 FR 8246, and we received no public comments. The 30-day FRN published on April 28, 2021 at 86 FR 22510. 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 we collect 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

Please see the burden chart below:

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)**
HA-L90	39,500	1	10	6,583	\$19.01*	\$125,143**
HA-L90-OP1	500	1	10	83	\$19.01*	\$1,578**
Totals	40,000			6,666		\$126,721**

* We based this figure on averaging both the average DI payments based on SSA's current FY 2021 data (<https://www.ssa.gov/legislation/2021FactSheet.pdf>), and the average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (https://www.bls.gov/oes/current/oes_nat.htm).

** This figure does not represent actual costs that we are 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 **6,666** burden hours (reflecting SSA management information data), which results in an associated theoretical (not actual) opportunity cost financial burden of **\$126,721**. SSA does not charge respondents to complete our applications. We base our burden estimates on current management information data, which includes data from actual interviews, as well as from years of conducting this information collection. Per our management information data, we believe that the 10 minutes accurately shows the average burden per response for reading the instructions, gathering the facts, and answering the questions. Based on our current management information data, the current burden information we provided is accurate.

13. Annual Cost to Respondents

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 \$46,100. This estimate accounts for costs from the following areas:

Description of Cost Factor	Methodology for Estimating Cost	Cost in Dollars*
Designing and Printing the Form	Design Cost + Printing Cost	\$650
Distributing, Shipping, and Material Costs for the Form	Distribution + Shipping + Material Cost	\$450
SSA Employee (e.g., field office, 800 number, DDS staff) Information Collection and Processing Time	GS-9 employee x # of responses x processing time	\$45,000
Full-Time Equivalent Costs	Out of pocket costs + Other	\$0

	expenses for providing this service	
Systems Development, Updating, and Maintenance	GS-9 employee x man hours for development, updating, maintenance	\$0
Quantifiable IT Costs	Any additional IT costs	\$0
Total		\$46,100

* We have inserted a \$0 amount for cost factors that do not apply to this collection. In addition, we cover all Systems Development, Updating, and Maintenance costs under ERE’s own clearance, OMB No. 0960-0753.

SSA is unable to break down the costs to the Federal government further than we already have. It is difficult for us to break down the cost for processing a single form, as field office staff often help respondents fill out several forms at once, and the time it takes to do so can vary greatly per respondent. As well, because so many employees have a hand in each aspect of our forms, we use an estimated average hourly wage, based on the wage of our average field office employee (GS-9) for these calculations. However, we have calculated these costs as accurately as possible based on the information we collect for creating, updating, and maintaining these information collections.

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. Collections of Information Employing Statistical Methods

SSA does not use statistical methods for this collection.