

**Supporting Statement for Emergency Paperwork Reduction Act (PRA) Approval For:
Social Security Administration (SSA) COVID-19 Symptoms Screener for Hearings
20 CFR 404.929, 404.933, 416.1429, 416.1433, 418.1350, and 422.203
OMB No. 0960-NEW
Emergency Information Collection Request (ICR)**

A. Justification

1. Introduction/Overview and Relevant Laws and Regulations

Introduction/Overview

Following a temporary pause on *in-person* appeals hearings due to the COVID-19 pandemic, the Social Security Administration (SSA) will soon restart in-person hearings on a limited basis. When SSA resumes these limited in-person hearings, we will ask participating members of the public to complete a brief COVID-19 symptoms screener questionnaire within 24 hours of their hearings. Satisfactory completion of the screener will be a prerequisite for participating in the in-person hearings.

Given that we would like to resume limited in-person hearings imminently, without the time a standard PRA approval process would entail, SSA is seeking emergency PRA approval from OMB. Specifically, we are asking for OMB approval by **December 12, 2021**, which is seven calendar days from the date of publication of the emergency *Federal Register* notice for this information collection request (ICR).

Relevant Laws and/or Regulations

The Occupational Safety and Health Administration's (OSHA) *OSHA Act* is guiding this temporary, emergency measure. This OSHA statute requires employers to establish and maintain an effective and comprehensive occupational and safety health program, "including (1) acquir[ing], maintain[ing], and requir[ing] the use of [...] devices reasonably necessary to protect employees."

The *Social Security Act (Act)* at Sections 205(b), 1155, 1631(c), and 1869, with implementing regulations at 20 CFR 404.929, 404.933, 416.1429, 416.1433, 418.1350, and 422.203 of the *Code of Federal Regulations (Code)*, entitles and prescribes procedures for claimants (or their appointed representative) to request a hearing before an Administrative Law Judge to appeal a decision.

2. Description of Collection

Background

During the recent COVID-19 pandemic, SSA conducted its public-facing services almost exclusively online or by telephone, to protect the health of both the public and our employees. We took these measures in accordance with relevant Centers for Disease Control (CDC) COVID-19 pandemic guidance, and to comply with the OSHA Act provision cited above in #1.

While in-person appeals hearings have not been available, Social Security claimants, beneficiaries, or their appointed representatives who wished to appeal a redetermination could instead choose to participate in an online video hearing (OVH) or telephone hearing.

In recent months, SSA has begun offering in-person appointments for some services, although not hearings, under very limited constraints, such as in dire circumstances, and by appointment only. Similar to the limited appointments SSA has begun offering for some services, we will soon also offer in-person appeals hearings on a limited-capacity basis. We plan to keep the number of in-person hearings to an average of three separate hearings per hearing office per day, to ensure the continued health and safety of the public and SSA employees.

Description of New Emergency Information Collection Tool

Because of COVID-19 health and safety considerations, we plan to require all members of the public participating in an in-person hearing, including claimants or payees, their representatives, and witnesses, to complete a brief screener questionnaire designed to identify COVID-19 symptoms within 24 hours of the day of the hearing.

The questionnaire will ask questions relating to personal experience of any COVID symptoms; exposure to someone diagnosed with COVID; or travel outside of the country by means other than land travel, such as car, bus, ferry, or train. Completion of the three-questions will be mandatory for in-person hearings, and satisfactory completion of the questionnaire, i.e. demonstrating that the hearing participant does not present with any symptoms of COVID-19; has not been exposed to someone with COVID; and has not traveled outside of the country by means other than land travel, such as car, bus, ferry, or train, will be a prerequisite for the in-person hearing to proceed.

Methodology

Before the Day of Hearing

As a matter of standard practice, SSA always sends a confirmation notice of hearing scheduling to the claimant/payee or their appointed representative when a hearing is scheduled. This notice includes the scheduled date, time, and place of the hearing. Once we resume limited in-person hearings, the notice will also include a COVID-19 Visitor Procedures Notice insert, which will ask the hearing attendees to review the COVID-19 health-screening checklist and complete the electronic check-in questionnaire within 24 hours of the hearing. See this special insert, attached as a supplementary IC in ROCIS. The COVID-19 notice insert provides a link that hearing participants can enter into the Web browser of any Internet-equipped device. The link will lead to an SSA website with the COVID-19 health-screening checklist and link to the COVID-19 questionnaire (attached as a primary IC in ROCIS), which the participant can complete and submit to SSA online. Alternately, in-person hearings participants who do not wish to complete the questionnaire online may call an SSA hearings office during business hours within 24 hours of the hearing. They can complete the questionnaire over the phone with an SSA

hearing office employee.

Data Collection and How SSA Will Use This Information

All parties who will be participating in the hearing, including claimants, payees, their appointed representatives, witnesses, or any other relevant person, will be required to complete the questionnaire within 24 hours of the hearing. SSA anticipates that most people needing to enter a SSA hearing office, including claimants, will complete this survey online before arriving at the hearing office online. SSA’s systems will then route the information to the specific hearing office where the hearing is scheduled. If participants prefer to complete the questionnaire by phone in advance, they can call the hearing office using the telephone number at the top of the notice of scheduled hearing.

If participants forgot, were unable to, or preferred not to complete the questionnaire within 24 hours of the in-person hearing, they may complete it outside the hearing office using an Internet-equipped device just before the hearing. If they answer the screening questions satisfactorily, the in-person hearing will proceed. Alternately, SSA hearing office employees can assist hearings participants via phone just before the hearing when a participant arrives outside the hearing office.

SSA will use the screener responses to determine if the person is “cleared” or “not cleared” to enter a SSA hearing office. If a person answers “yes” to any part of the screener, the person will be “not cleared.” Persons who are not cleared may seek to be rescheduled for the next in-person hearing date at least 14 days after the COVID-19 symptoms first presented, or 14 days after they tested positive for COVID-19. They may also choose to inquire if a faster OVH or telephone hearing slot is available. Claimants are always eligible for the same Social Security payments regardless of the hearing methodology they choose.

Information the Screening Tool Will Request

Respondents must answer three questions, which are:

1. If they have any one of a list of eight symptoms that commonly present in COVID-19 positive people (see attached IC for the list);
2. If they have been diagnosed with COVID-19 in the last 14 days, or if they have received instructions to monitor for symptoms or self-quarantine in the last 14 days;
or
3. If they have traveled outside the country by means other than land travel, such as car, bus, ferry, or train, or have been within 6 feet of a person who was diagnosed with COVID-19.

3. Use of Information Technology to Collect the Information

In accordance with the agency’s Government Paperwork Elimination Act plan, SSA has created a fully online version of this IC. The COVID screener notice that accompanies the hearings scheduling confirmation notice will provide a link for respondents to enter in

any Internet-equipped device. Once they reach that link, respondents can complete and submit the questionnaire online. SSA's systems will direct the information to the hearings office where the hearing is scheduled.

Although SSA anticipates that nearly 100% of respondents are likely to use this electronic method, those few respondents who prefer not to use the online version, or who do not have access to the Internet during the relevant 24-hour timeframe, may call the hearings office instead or answer the screening questions outside the hearing office on the day of the hearing.

4. Why we Cannot Use Duplicate Information

The nature of the information we are collecting and the manner in which we are collecting it preclude duplication. SSA does not use another collection instrument to obtain similar data, nor do we have access to any other data sources that would provide us with the information the questionnaire asks for.

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 SSA did not collect the relevant information, we would have no way of confirming if hearings participants presented with the symptoms of COVID or had been exposed to someone diagnosed with COVID. This would potentially endanger other members of the public participating in the hearing, as well as SSA employees.

SSA will announce the specific start date for resumption of limited in-person hearings shortly, as part of our agency's overall reopening plan, which will be made public. When the COVID-19 pandemic is declared to be over by the CDC or the Department of Health and Human Services, and we can resume full capacity for in-person hearings, we will make that information public, as well. We will only use the screener for the period of time between these two events, and so thus cannot collect it less frequently.

We note that although completion of the COVID-19 screening survey is mandatory for any person to participate in an in-person hearing, it is **not** required to obtain or maintain eligibility for Social Security payments. SSA will continue to offer telephone and online hearings. People who do not wish to complete the COVID-19 questionnaire screener may simply request an online or telephone hearing instead. Claimants may obtain Social Security payments regardless of the hearing methodology they choose.

7. Special Circumstances

There are no special circumstances that would cause this information collection to be conducted in a manner inconsistent with 5 *CFR* 1320.5.

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

SSA published this Emergency PRA Approval Request in the *Federal Register* on December 3, 2021 at 86 FR 68717. Due to the critical time sensitivity of this ICR -we would like to begin resuming in-person appeals hearings imminently- OMB has agreed to waive a formal public comment period. Nonetheless, we have invited the public to share comments with us if they wish to do so. Should the need arise to extend this ICR beyond the standard 6-month duration of an Emergency clearance, we will initiate a new PRA process and will seek public comment in the *Federal Register* at that time. We would also consider any comments submitted during the emergency clearance process at that time.

SSA did not consult members of the public in the development or maintenance of this questionnaire. However, we did consult CDC guidelines in developing the questions.

9. Payment or Gifts to Responders

SSA does not provide non-program payments or any gifts to the appellants.

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.

Data Usage and Storage

SSA is using this information collection primarily as an on-site, point-of-service screening tool. However, we will also retain the information it collects for 24 hours, after which time we will delete all Personally Identifiable Information (PII) and store the data in anonymized form for management information purposes. The data we retain will provide a summary report by count, such as how many successful check-ins there were, how many people were cleared or not cleared to enter the hearing offices, and how many were rescheduled. We will use this information for purposes of planning future staffing. We will not share the information, whether in PII or anonymized form, with any parties external to SSA.

11. Justification for Sensitive Questions

Although we will collect information some may consider sensitive (e.g., medical symptoms, exposure to those with COVID-19), we need this to ensure that our limited in-person hearings are conducted in an environment that is safe for both the public and for our employees. As explained above in #10, we will keep this information confidential.

12. Estimates of Public Reporting Burden

SSA provides burden estimates for this ICR below.

Burden Calculations:

Modality of Completion	Number of Respondents	Frequency of Response	Average Burden Per Response (Minutes)	Estimated Total Annual Burden (hours)	Average Wait Time in Hearings Office (Minutes)*	Average Total Estimated Time Burden for Office Wait Time	Average Theoretical Hourly Cost Amount (Dollars)*	Total Annual Opportunity Cost Dollars***
COVID Screener Questionnaire	179,580 (164 hearing offices x 3 hearings per office per day x 2 persons per hearing x 182.5 days, which is the duration of the emergency ICR)	1	10	29,930 (179,580 respondents x 10 completion minutes/60 minutes per burden hour)	10	29,930 (179,580 respondents x 24 waiting minutes/60 minutes per burden hour)	\$19.01	\$1,137,939 (29,930 response hours + 29,930 response hours = 59,860 total hours. Then multiply 59,860 hours x \$19.01)

* This figure reflects average (mean) FY 2021 wait times for hearing offices.

**We based this figure on a combination of the average DI payments based on SSA's current FY 2021 data (<https://www.ssa.gov/legislation/2021FactSheet.pdf>) and on 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#00-0000). We averaged figures from both sources since respondents will include both generally unemployed (claimants/disability recipients) and employed (representatives, witnesses) persons.

***This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this COVID-19 screening questionnaire; 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 questionnaire.**

In addition, OMB's Office of Information and Regulatory Affairs (OIRA) requires SSA to use a rough estimate of a 30-minute, one-way, drive time in our calculations of the time burden for this collection. OIRA based their estimation on a spatial analysis of SSA's current field office locations and the location of the average population centers based on census tract information, which likely represents a 13.97-mile driving distance for one-way travel. We depict this on the chart below:

Total Number of Respondents Who Visit a Hearing Office to Complete this Collection	Frequency of Response	Average One-Way Travel Time to Hearing Office (minutes)	Estimated Total Travel Time to a Hearing Office (hours)	Total Annual Opportunity Cost for Travel Time (dollars)****
179,580	1	30	89,790 hours (179,580 respondents x 30 minutes/60 minutes per burden hour)	\$1,706,908 (89,790 burden hours x the \$19.01 average figure explained above)

****We based this dollar amount on the Average Theoretical Hourly Cost Amount in dollars shown on the burden chart above.

Per OIRA, we include this travel time burden estimate under the 5 CFR 1320.8(a)(4), which requires us to provide “time, effort, or financial resources expended by persons [for]...transmitting, or otherwise disclosing the information,” as well as 5 CFR 1320.8(b)(3)(iii) which requires us to estimate “the average burden collection...to the extent practicable.” SSA notes that we do not obtain or maintain any data on travel times to a field office, nor do we have any data which shows that the average respondent drives to a field office, rather than using any other mode of transport. SSA also acknowledges that respondents’ mode of travel and, therefore, travel times vary widely dependent on region, mode of travel, and actual proximity to a field office.

Burden Summary, Reflecting Aggregate Information from the Above Charts:

We base our burden estimates on current management information data, which includes the usability testing for this information collection, as well as data from similar screener questions. Per our management information data, we believe that the burden times on the above chart accurately show the average burden per response for reading the instructions, gathering the facts, and answering the questions. The total burden for this ICR is:

- **29,930 burden hours** for actual burden, i.e. gathering the facts and completion of the questionnaire;
- **119,720 ancillary burden hours** for related activities (29,930 burden hours of wait time + 89,790 hours for theoretical travel time); and
- **\$2,844,847 associated total theoretical (not actual) opportunity costs** for both actual and ancillary burden hours (\$1,934,496 for completion burden + field office wait time + \$1,706,908 for theoretical travel time).

13. Annual Cost to Respondents

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

14. Annual Cost to Federal Government

The annual cost to the Federal Government is approximately **\$110,316**. This estimate accounts for costs from the following areas:

Description of Cost Factor	Methodology for Estimating Cost	Cost in Dollars*
Designing and Printing associated COVID-19 Screener Special Notice	Design Cost (\$20,171) + Printing Cost (\$14,359)	\$34,530
Distributing, Shipping, and Material Costs for the Special Notice	Distribution + Shipping + Material Cost	\$0* (<u>Note</u> : since we are mailing hearings appointment notices anyway, and this one-page screener notice will not increase postage, there are no distribution/shipping/material costs associated with the notice.)
Full-Time Equivalent Costs	Out of pocket costs + Other expenses for providing this service	\$0*
Systems Development	Reflects the workyears and GS level of the Systems staff who developed the questionnaire website.	\$68,366
Systems Updating and Maintenance	Reflects the workyears and GS level of the Systems staff who will update and maintain the questionnaire as needed.	\$3,420
Quantifiable IT Costs	Miscellaneous additional IT costs	\$4,000
Total		\$110,316

* We have inserted a \$0 amount for cost factors that do not apply to this collection.

SSA is unable to break down the costs to the Federal government further than we already have. First, since we mail hearings appointment notices to large numbers of claimants and recipients and their representatives, we often do bulk mailings, and cannot track the cost for a single mailing. In addition, it is difficult for us to break down the cost for processing a single questionnaire, as we anticipate nearly all will be completed online and automatically routed to the appropriate hearing office. As well, because various types of employees were and will be involved in this process (such as Systems developers and hearings office staff), we use an estimated average hourly wage 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**
This new IC increases the public reporting burden. See #12 above for burden figures. The IC does not modify SSA's existing programs in any way.
 - 16. Plans for Publication Information Collection Results**
SSA will not publish the results of the information collection.
 - 17. Request not to Display OMB Expiration Date**
SSA is not requesting an exception to publishing the OMB expiration date on the online questionnaire. For the few respondents who may choose to call a hearings office and complete the questionnaire on the phone, hearings office employees can verbally disclose the OMB expiration date to them.
 - 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.