

Supporting Statement Part A
Department of Commerce
Emergency Information Collection Request
Eligibility Questionnaire for HAVANA Act Payments,
OMB Control Number 0690-0037

A. JUSTIFICATION

1. Why is this collection necessary and what are the legal statutes that allow this?

On October 8, 2021, President Biden signed the “Helping American Victims Afflicted by Neurological Attacks” (HAVANA) Act of 2021 (Public Law 117-46). In this statute, Congress authorized federal agencies to make payments to affected current employees, former employees, and their dependents (hereinafter, “claimants” or “patients”) for qualifying injuries to the brain. This law requires the Department of Commerce to “prescribe regulations” implementing the HAVANA Act. The Department has published an interim final rule (IFR) to fulfill the mandate of the HAVANA Act. As described below, the Eligibility Questionnaire provides the required medical substantiation for claims filed pursuant to the HAVANA Act and the Department’s rule.

2. What business purpose is the information gathered going to be used for?

An individual wishing to make a claim under the HAVANA Act IFR will fill out the “Patient Demographics” portion of the Eligibility Questionnaire (CD-350) and provide it to a physician currently certified with the American Board of Psychiatry and Neurology (ABPN), the American Osteopathic Board of Neurology and Psychiatry (AOBNP), the American Board of Physical Medicine and Rehabilitation (ABPMR) or the American Osteopathic Board of Physical Medicine and Rehabilitation (AOBPMR). The board-certified physician will complete the form after examining the individual and reviewing their records and will fax or email the completed form to the Department. The physician’s findings will be instrumental in determining the individual’s eligibility for payment under the HAVANA Act.

As noted in the IFR, the Department believes that many respondents to this information are already known to the Department due to prior reporting. Nevertheless, the Department notes that this form, which will be available on www.commerce.gov/havana-act, can be completed by any Department covered employee, covered individual, or covered dependent as a way of beginning an application for a HAVANA Act payment.

Respondents to this information collection are individuals who believe they are eligible for payment under the HAVANA Act (Section I of the form) and physicians responsible for evaluating their symptoms and impairment (Section II of the form).

3. *Is this collection able to be completed electronically (e.g., through a website or application)?*

The Eligibility Questionnaire is available for download on the Department's website, www.commerce.gov/havana-act. The form will be completed by the claimant and board-certified physician. Given that the physician will not be associated with the Department and due to the sensitive information on the form, there cannot at this time be end-to-end electronic completion of the Eligibility Questionnaire.

4. *Does this collection duplicate any other collection of information?*

The information collected on this form is not otherwise available to the Department and is necessary to process the claim for payments under the HAVANA Act and IFR.

5. *Describe any impacts on small business.*

Where the physician works for, or owns, a small business, the collection of this information would be no more than the type of examination they would perform in the normal course of their business.

6. *What are consequences if this collection is not done?*

Without this collection, the Department will be unable to process claims for payments pursuant to the HAVANA Act.

7. *Are there any special collection circumstances?*

No special circumstances exist.

8. *Document publication (or intent to publish) a request for public comments in the Federal Register*

On June 13, 2023, a 60-day Federal Register notice was published to solicit public comments on this information collection, (Vol. 88 Pg. 38482). No public comments were received.

Additionally, DOC solicited comments outside the agency from the Department of State, other Federal agencies and interested parties, on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

9. *Are payments or gifts given to the respondents?*

No payment or gift to respondents will be provided.

10. *Describe assurances of privacy/confidentiality*

Information associated with a particular individual is governed by the Privacy Act of 1974, 5 U.S.C. § 552a. At the point of collection, individuals are provided notice through a Privacy Act Statement. Medical information may be covered by the Rehabilitation Act,

42 U.S.C. § 12112(d), and any provisions of law applicable to the records of the physician. There are no assurances of confidentiality.

11. *Are any questions of a sensitive nature asked?*

The Eligibility Questionnaire requires a physician to document information regarding a claimant's medical status.

12. *Describe the hour time burden and the hour cost burden on the respondent needed to complete this collection.*

(a) Hour time burden:

The Department expects that approximately **20 claimants** will submit the Eligibility Questionnaire to a physician during the remainder of fiscal year 2023. While the Department anticipates fewer claimants will actually file claims, the exact number is not known, and it is challenging to estimate the number of potential dependents affected. It is estimated that the physician will spend, on average, **30 minutes** completing their portion of the form. Therefore, **the annual hour burden for physicians is estimated to be 10 hours¹.**

Each form will cover two types of respondents: the claimant (who might not be a federal employee) and the board-certified physician. The Department estimates that the "Patient Demographics" portion of the form will take less than a minute for the patient to complete. Although that burden is *de minimus*, the patient must be examined by a board-certified physician. It is not possible to know the burden associated with the claimant being seen by a physician. However, the Department estimates that there will be 30 minutes of travel time for the average claimant to consult with a physician in person. **This yields a total burden for claimants of 10 hours (30 minutes times number of claimants).**

Total burden hours for this collection:

Burden for claimants + burden for physicians = 20 hours.

(b) Hour cost burden:

Based on an average hourly wage for board-certified physicians of \$128.68², the weighted wage hour cost burden for physicians in this collection is \$1,930.20. This is based on the calculation of \$128.68 (average hourly wage) x 1.5 (weighted wage multiplier) times 10 hours.

For claimants, based on an average hourly wage of \$28.01³, the weighted wage hour cost burden for this collection is \$420.15. This is based on the calculation of \$28.01 (average hourly wage) x 1.5 (weighted wage multiplier) times 10 hours.

Total cost burden for this collection: cost burden for physicians + cost burden for claimants = \$2,350.35.

13. *Describe the monetary burden to respondents (out of pocket costs) needed to complete this collection.*

There is no out of pocket cost for the respondents associated with submission of this collection. The claimant is responsible for the cost of the examination.

14. *Describe the cost incurred by the Federal Government to complete this collection.*

A team within the Department of Commerce reviews the information on the completed form. The information on the form would be combined with other information available to the Department to make a recommendation on whether payment under the HAVANA Act is appropriate. The Team is also responsible for informing claimants if there is incomplete or contradictory information and providing any other notifications to them.

The Department estimates that, on average, it will take approximately 8 hours for the Department of Commerce Team to review and process a claim to present to Department leadership. Therefore, approximately 160 hours annually will be dedicated to reviewing incoming forms. The average wage of a Team member is \$68.43 per hour. The Department estimates that this information collection will cost the Federal Government \$10,949 for fiscal year 2023.

15. *Explain any changes/adjustments to this collection since the previous submission*

Other than adding a fax number to the form, no other changes or adjustments have been made to this collection.

16. *Specify if the data gathered by this collection will be published.*

The data gathered by this collection will not be published.

17. *If applicable, explain the reason(s) for seeking approval to not display the OMB expiration date. Otherwise, write “The Department will display the OMB expiration date.”*

The Department will display the OMB expiration date.

18. *Explain any exceptions to the OMB certification statement below. If there are no exceptions, write “The Department is not seeking exceptions to the certification statement”.*

The Department is not seeking exceptions to the certification statement.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.