

Supporting Statement for Form SSA-821-BK
Work Activity Report – Employee
20 CFR 404.1520(b), 404.1571-404.1576,
404.1584-404.1593, and 416.971-416.976
OMB No. 0960-0059

A. Justification

1. Introduction/Authoring Laws and Regulations

Sections 223(d) and 1633 of the *Social Security Act (Act)* authorizes the Social Security Administration (SSA) to provide regulations for administering the disability provisions of the law. The appropriate regulations are contained in Sections 20 CFR 404.1520(b), 404.1571-404.1576, 404.1584-404.1593, and 416.971-416.976 of the *Code of Federal Regulations*. Section 223(d) of the *Act* defines the term “disability” as the inability to engage in any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment which one expects to result in death, or which lasted or is expected to last for a continuous period of not less than 12 months. Social Security Disability (SSDI) and Supplemental Security Income (SSI) applicants can become entitled to payments based on their inability to engage in SGA because of a physical or mental condition. When disability beneficiaries work, they must report the work so SSA can evaluate it to determine if they continue to meet the disability requirements of the law. We use form SSA-821 Work Activity Report Employee to collect this information. This is a revision to an existing collection.

2. Description of Collection

Respondents learn of the possibility for benefits via Agency mailers, multi-media commercials and advertising, SSA’s general website, a link from the [mySocial Security](#) landing page, as well as from other individuals. SSA is constantly reviewing our outreach tactics to assure maximum exposure and accessibility to necessary individuals. Our website and mailers list the information respondents need to apply for this benefit.

One of the requirements for entitlement to receive SSDI or SSI or (in most cases) continue to receive disability under SSDI is the claimant’s inability to engage in SGA due to a physical or mental condition. In situations where a claimant has reported work (e.g., during an initial claim he or she alleges work after the disability onset date, or he or she reports working after becoming entitled to benefits), or in situations where SSA has identified potential income from work via third parties (e.g., IRS reporting), SSA (typically the field office or program service center) uses Form SSA-821-BK to further evaluate whether the income earned indicates work at an SGA level.

To initiate the process, the field office or program service center will complete certain aspects of the form to reflect the income SSA believes the beneficiary may have earned, and the date range for which further information is required (e.g.,

onset date, date of last review, etc.). SSA asks questions on the SSA-821-BK to learn more about the nature of the income, value of the work, and the time period of the work, to determine if the work constituted SGA.

As discussed above, we use the data we obtain to evaluate disability claims, and to help us determine if the claimant meets current disability provisions under Titles II and XVI. Since applicants for disability or SSI payments must prove an inability to perform any kind of SGA generally available in the national economy for which we expect them to qualify based on age, education, and work experience, any work performed since the date the disability allegedly began, affects our disability determination. SSA may collect the information requested on this form in person, via a phone interview, by sending the form to the individual to complete, or through electronic submission. While the means of submission depends on the situation, typically, if the initial claim takes place in-office or by phone, the technician completes the form with the applicant during that interview if the applicant's prior responses regarding work indicate the need for completing the SSA-821-BK. If the applicant files online, the technician typically calls to complete the form over the phone but will mail it if the phone call is unsuccessful. For post entitlement situations, technicians are required to call the beneficiary over the phone and complete and attest the form. If unsuccessful, the technician mails the form. There are some post-entitlement instances when the form may be completed in-office.

SSA developed a mobile-accessible, online process so that any individual applying for or receiving services from SSA can upload forms, documentation, evidence, or correspondence associated with their transaction without the need to visit or mail information to a local office. We are replacing the online fillable and submittable version Form SSA-821-APP, which used the Adobe Sign technology with the Upload Documents tool. SSA created the Upload Documents tool which allows first party customers to electronically sign (when a signature is required), upload, and submit certain forms and evidence to SSA from their personal desktop and mobile devices, including the SSA-821-BK (effective 03/30/2024). Upload Documents gives the agency an opportunity to modernize our interactions with customers, offer a more robust, secure electronic service delivery channel, and automate some manual paper processes, reducing the need for customer visits and calls to our offices.

We identified the following psychological costs based on the requirements for this information collection:

- **Psychological Cost #1:**
 - **Requirement for the Program:** The SSA-821 requests detailed information about an individual's work activity, any applicable work incentives, and earnings.

- o **Psychological Cost:** The respondents might perceive that the questions could negatively impact their entitlement. Because of this, some may find the process stressful or stop answering the questions entirely. The respondents may find the questions on the form unduly invasive and choose not to answer.

We understand these psychological costs may cause respondents to delay their completion of the information collection or cause them to abandon the information collection entirely. However, we need additional information to accurately determine SGA level work. We require full completion of this collection to receive or continue to receive benefits. Therefore, we have taken this potential psychological cost into account when calculating our burden in #12 below.

The respondents are SSDI applicants or beneficiaries, and SSI applicants, or their representative payees.

3. Use of Information Technology to Collect the Information

This collection has a submittable PDF version which utilizes an electronic signature (eSignature). The submittable version mirrors the paper version and provides respondents to use this option as an alternative to mailing, faxing, or bringing the form to an SSA field office. The respondents receive a link to the form to complete, electronically sign, and submit via an electronic portal. Use of the Upload Docs application does not present any added burden on respondents, nor does it require respondents to download or install an application locally on their device or pay any subscription or licensing fees. Upon submission, SSA transmits this version of the form to the field office via the Upload Documents portal. In Fiscal Year 2023, SSA received roughly 25,000 or about 6 percent electronically submitted SSA-821-BK forms. Respondents can also complete the form via an in office or phone interview, as SSA field office employees transcribe the information onto the form directly.

4. Why We Cannot Use Duplicate Information

The nature of the information we collect and the way 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 significantly 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-821-BK, we would have no way to determine whether an applicant's or beneficiary's work is SGA, which could cause an incorrect initial disability decision, or result in improper payments to recipients who were receiving payments. Failing to provide all or part of the information

may prevent an accurate and timely decision on any claim filed. Because we 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 September 12, 2024 at 89 FR 74351, and we received no public comments. The 30-day FRN published on December 6, 2024 at 89 FR 97155. If we receive any comments in response to this Notice, we will forward them to OMB. We did not consult with the public in the development or revision/maintenance of this form.

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

As stated in #2 above, we need to ask some detailed questions about work activity and work history which some respondents may perceive as invasive in nature to assess their eligibility for benefits or continued benefits under this program. These include questions regarding their work activity and employment supports. As such, this information collection may have psychological costs pertaining to collection of personal questions (which we also discussed in #2 above). However, we must ask these questions to evaluate work activity and how it affects their eligibility for benefits.

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)* | Average Wait Time in Field Office or for Teleservice Centers (minutes)** | Total Annual Opportunity Cost (dollars)*** |
|------------------------|-----------------------|-----------------------|---------------------------------------|---------------------------------------|---|--|--|
| SSA-821-BK | 64,330 | 1 | 30 | 32,165 | \$13.30* | 24** | 770,030*** |

| | | | | | | | |
|------------------------------|----------------|---|----|----------------|----------|------|-----------------------|
| In Office | | | | | | | |
| SSA-821-BK Phone | 128,660 | 1 | 30 | 64,330 | \$13.30* | 19** | 1,397,458*** |
| SSA-821-BK Returned Via Mail | 192,990 | 1 | 40 | 128,660 | \$13.30* | | 1,710,380*** |
| SSA-821-BK Electronic | 25,320 | 1 | 45 | 18,990 | \$13.30* | | 252,567*** |
| Totals | 411,300 | | | 244,145 | | | \$4,130,435*** |

* We based this figure on the average DI payments based on SSA's current FY 2024 data (<https://mwww.ba.ssa.gov/legislation/2024FactSheet.pdf>), and U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (https://www.bls.gov/oes/current/oes_nat.htm).

** We based this figure on averaging both the average FY 2024 wait times for field offices and teleservice centers, based on SSA's current management information 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.**

In addition, OMB's Office of Information and Regulatory Affairs (OIRA) is requiring 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 Field Office | Frequency of Response | Average One-Way Travel Time to a Field Office (minutes) | Estimated Total Travel Time to a Field Office (hours) | Total Annual Opportunity Cost for Travel Time (dollars)***** |
|--|-----------------------|---|---|--|
| 64,330 | 1 | 30 | 32,165 | \$427,795***** |

***** 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.

We calculated the following Learning Cost time burden based on the estimated time and effort we expect respondents will take to learn about this program, its applicability to their circumstances, and to cover any additional research we believe respondents may need to take to understand how to comply with the program requirements (beyond reading the instructions on the collection instrument):

| Total Number of Respondents | Frequency of Response | Estimate Learning Cost (minutes) | Estimated Total Annual Burden (hours) | Total Annual Learning Cost (dollars)***** |
|------------------------------------|------------------------------|---|--|--|
| 411,300 | 1 | 15 | 102,825 | \$1,367,573***** |

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

NOTE: We included the total opportunity cost estimate from this chart in our calculations when showing the total time and opportunity cost estimates in the paragraph below.

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 **30, 40 or 45** minutes accurately shows the average burden per response for learning about the program; receiving notices as needed; reading and understanding instructions; gathering the data and documents needed; answering the questions and completing the information collection instrument; scheduling any necessary appointment or required phone call; consulting with any third parties (as needed); and waiting to speak with SSA employees (as needed). Based on our current management information data, the current burden information we provided is accurate. The total burden for this ICR is **244,145** burden hours (reflecting SSA management information data), which results in an associated theoretical (not actual) opportunity cost financial burden of **\$5,925,803**. 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 on the respondents.

14. Annual Cost to Federal Government

The annual cost to the Federal Government is approximately **\$4,742,493**. 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 | \$2,586 |
| Distributing, Shipping, and Material Costs for the Form | Distribution + Shipping + Material Cost | \$0 |
| SSA Employee (e.g., field office, 800 number, DDS staff) Information Collection and Processing Time | GS-9 employee x # of responses x processing time | \$4,463,976 |
| Full-Time Equivalent Costs | Out of pocket costs + Other expenses for providing this service | \$0* |
| Systems Development, Updating, and Maintenance | GS-9 employee x man hours for development, updating, maintenance | \$275,931 |
| Quantifiable IT Costs | Any additional IT costs | \$0* |
| Total | | \$4,742,493 |

* 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. 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 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**
 When we last cleared this information request in 2021, the burden was 205,650 hours. However, we are currently reporting a burden of 244,145 hours. This change stems from an increase in the average burden per response. We last reported an average burden of 30 minutes, but now are adding categories of response with burdens of 40 and 45 minutes. Although the average burden per response changed, SSA did not take any actions to cause this change. These figures represent current Management Information data.

* Note: The total burden reflected in ROCIS is **445,610**, while the burden cited in #12 of the Supporting Statement is **244,145**. This discrepancy is because the ROCIS burden reflects the following components: field office waiting time + a rough estimate of a 30-minute, one-way, drive burden + learning costs. In contrast, the chart in #12 of the Supporting Statement reflects actual 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 information collection.