

Supporting Statement for Form SSA-773-U4
Waiver of Right to Appear – Disability Hearing
20 CFR 404.913-404.914, 404.916(b)(5), 416.1413-416.1414, 416.1416(b)(5)
OMB No. 0960-0534

A. Justification

1. Introduction/Authoring Laws and Regulations

Section 205(b) of the *Social Security Act* and Sections 20 CFR 404.913-404.914 and 416.1413-416.1414 of the *Code of Federal Regulations* allow for an evidentiary administrative hearing. This hearing takes place at the reconsideration level of appeal for beneficiaries, or recipients, who received an initial continuing disability review (CDR) or reopened, or revised, determination or decision that a disability did not exist or ceased. 20 CFR 404.916(b)(5) and 20 CFR 416.1416(b)(5) inform beneficiaries and recipients of the effects of the decision to waive the right to a disability hearing with a Disability Hearing Officer (DHO).

2. Description of Collection

Claimants for Social Security disability payments or their representatives can use Form SSA-773-U4 to waive their right to appear at a disability hearing. Respondents complete the SSA-773-U4 through a personal interview with field office (FO) staff; Disability Determinations Service (DDS) staff; or Disability Hearing Unit (DHU) staff to insure the individual understands the due process rights associated with the decision to waive personal appearance at a disability hearing by a DHO. We conduct these personal interviews either in person or via telephone with the claimants or their representatives. Once we obtain the information on the SSA-773-U4, the DHO uses the signed form as a basis for not holding a hearing, and for preparing a written decision on the claimant's request for disability payments based solely on the evidence of record. The respondents are disability claimants for Social Security benefits or SSI payments, or their representatives, who wish to waive their right to appear at a disability hearing.

3. Use of Information Technology to Collect the Information

SSA created an online Fillable PDF version of Form SSA-773-U4 for FO, DDS, or DHU staff to complete through a personal interview with the claimants or their representatives. Once FO, DDS or DHU staff complete the interview, they print the form and ask the respondent to sign it. In the case of telephone interviews, the staff member mails the completed form to the respondent for signature. The respondent then mails the completed and signed form back to SSA with the included prepaid envelope. Based on our data, we estimate approximately 100% of respondents for this collection use the fillable PDF version.

This collection does not currently have a fully public-facing Internet version, as we prioritized other information collections for full electronic conversions. Given that IT Mod programming is an ongoing, dynamic project, we cannot provide

specific timelines for when we will be able to make any particular ICR available via Internet web-based application. We will ultimately convert most existing ICRs to full electronic versions depending on how they fall within our overall IT Mod schema, but this may be unconnected to the PRA approval lifecycle.

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 obtain similar data.

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 we did not use Form SSA-773-U4, beneficiaries and recipients would not have a structured format to use to request a waiver to appear at a disability hearing, or documentation informing them of the effects of their decision to waive that right. SSA would also lack documentation of the individual's informed decision. Since SSA requests 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 April 6, 2021 at 86 FR 17874, and we received no public comments. The 30-day FRN published on June 23, 2021 at 86 FR 33007. 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 payment 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

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	Number of	Frequency	Average	Estimated	Average	Average	Total Annual
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Completion	Respondents	of Response	Burden Per Response (minutes)	Total Annual Burden (hours)	Theoretical Hourly Cost Amount (dollars)*	Wait Time in Field Office (minutes)**	Opportunity Cost (dollars)***
SSA-773-U4	200	1	3	10	\$10.95*	24**	\$986***

* We based this figure on average DI payments based on SSA's current FY 2021 data (<https://www.ssa.gov/legislation/2021FactSheet.pdf>).

** We based this figure on the average FY 2021 wait times for field offices, 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 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)****
200	1	30	100	\$1,095

**** 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.

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

The total burden for this ICR is **10** burden hours (reflecting SSA management information data), which results in an associated theoretical (not actual) opportunity cost financial burden of **\$2,081**. 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 3 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 the Respondents (Other)

This collection does not cause a known cost burden to the respondents.

14. Annual Cost To Federal Government

The annual cost to the Federal Government is approximately \$430. 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	\$100
Distributing, Shipping, and Material Costs for the Form	Distribution + Shipping + Material Cost	\$50
SSA Employee (e.g., field office, 800 number, DDS staff) Information Collection and Processing Time	GS-9 employee x # of responses x processing time	\$280
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	\$0
Quantifiable IT Costs	Any additional IT costs	\$0
Total		\$430

* 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 and State DDS 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. However, we updated the burden hours in ROCIS to include the 30-minute travel time to a field office, which increased the overall burden for this collection.

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.