

Supporting Statement for Form SSA-792
Statutory Benefit Continuation Election Statement
20 CFR 404.1597a, and 416.996
OMB No. 0960-NEW

A. Justification

1. Introduction/Authoring Laws and Regulations

Sections 223(g) and 1631 (a)(7) of the Social Security Act provide that, when a disability title II beneficiary or title XVI recipient requests an appeal of a Social Security Administration's (SSA) determination that their physical or mental impairment(s) has ceased, has never existed, or is no longer disabling during a continuing disability review (CDR), the individual has the right to request disability benefits continue during their appeal. We refer to this continuation of benefits as statutory benefit continuation (SBC). Our regulations at 20 CFR 404.1597a(f) and 416.996(c-d) describe how an individual can request SBC during an appeal of a CDR determination. Within 10 days after receipt of the notice that disability benefits will end, the individual must complete a statement to elect or decline continuation of benefits. Because our regulations at 20 CFR 404.901 and 416.1401 define the date the notice is received as five days after the date on the notice, we allow up to 15 calendar days for SBC election.

The SBC election is effective until we make the determination or decision at the applicable appeal level. The individual must make a separate election at each level of appeal through the hearing before an administrative law judge (ALJ). SBC is not available at the appeals council (AC) or federal court levels. However, if the AC remands a case back to the ALJ hearing level, and the individual did not previously elect SBC, the individual has another opportunity to make an SBC election at that time. If the individual elected SBC at a prior ALJ hearing level, the field office (FO) automatically reinstates SBC after the AC sends the case to the hearing office. The FO reinstates benefits retroactive to the first month of non-payment resulting from the now vacated prior ALJ decision.

2. Description of Collection

Under current policy, the individual records their request on the form SSA-795, Statement of Claimant or Other Person (OMB 0960-0045). When the individual submits a writing of their own, the written statement often does not include all the necessary information. Field office staff must often contact the individual to explain the available options. In addition, the individual has 10 calendar days from the notice date to submit their election to continue benefits, which often results in the individual having to visit the local field office in person to meet the deadline.

SSA will use Form SSA-792 to standardize our collection of an individual's benefit continuation election choice. This new information collection allows the individual to

elect from a variety of options available to them for continued disability benefits and Medicare coverage.

The individual receives a determination notice when SSA determines that the individual's physical or mental impairment(s) has ceased, never existed, or is no longer disabling. The notice will provide information about contacting the FO to request an appeal and benefit continuation. The notice provides the applicable appeal form number and link to locating the form on the ssa.gov website. Similarly, the notice will refer the individual to the SBC form SSA-792 with a link to the website.

A claimant has two opportunities to elect SBC during the appeal process. The individual can request SBC when appealing at the reconsideration level and again at the hearing level. Reconsideration is the first step in the administrative review process that SSA provides to an individual dissatisfied with an initial determination. Reconsideration involves a thorough reexamination of all evidence on record. For medical cessation appeals, the Disability Determination Services makes the reconsideration determination. The person reviewing the case, who was not involved in the initial determination, will make the reconsideration determination based on all evidence used in the initial determination and any additional evidence or information submitted with the appeal. A hearing is a proceeding before an administrative law judge (ALJ) from the Office of Hearings Operations. The individual appealing may appear at the hearing in person or through video teleconference. If the individual does not wish to appear at the hearing, they may waive their right to personal appearance, and request that the ALJ decide based on the evidence in file and newly submitted evidence, if any.

The following beneficiaries are eligible for SBC: SSI recipients whose benefits are based on disability or blindness, primary disability insurance beneficiaries, auxiliaries receiving benefits on the record of a primary disability beneficiary, disabled widow/widowers, disabled adult children, mothers/fathers receiving benefits based on having a disabled adult child in their care, and mothers/fathers receiving benefits based on having in their care a child under age 18 but over age 15 who is disabled and receiving child's benefits.

SSA technicians input appeals and SBC elections into the applicable claims processing system. When the disability appeal is established in the Electronic Disability Collect System (EDCS), the technician indicates in EDCS whether SBC applies. This input updates to the disability claim file (DCF) to continue benefits or end benefits as of the termination month. If a EDCS exclusion exists, SSA processes the Title II SBC election via EDCS Exclusion Appeal Screen (EEAI) available via the DCF. Title XVI EDCS exclusions require a direct SSR update to input SBC election.

SSA stores the completed form SSA-792 in the individual's official electronic folder. If the folder of record is paper, SSA stores a copy of the form into Evidence Portal and files the paper form folder.

The individual can print a fillable PDF version of the SSA-792 from our public-facing website and return the information collection to their local field office by mail or in

person. The individual can also obtain the SSA-792 and assistance completing the information collection from their local field office. Online access to the form provides an alternative and more convenient option to the individual than traveling to or calling the field office. For field office staff, use of this form will minimize the need to recontact the individual for more information and will increase the number of timely received election statements.

We identified the following psychological cost based on the requirement for this information collection:

- **Requirement for the Program:** The individual has 10 days from receipt of our notice of determination to request benefit continuation while their appeal is in process.
- **Psychological Cost:** The individual may feel stress with accessing the form, completing it, and submitting it to SSA timely.

We understand this psychological cost may cause respondents to delay their completion of the information collection or cause them to abandon the information collection entirely. However, we require full completion of this collection for the individual to continue to receive benefits. Therefore, we have taken this potential psychological cost into account when calculating our burden in #12 below. The respondents are title II and title XVI disability beneficiaries and recipients and TII auxiliaries.

3. Use of Information Technology to Collect the Information

As a new information collection, a fully public-facing Internet version does not currently exist. Given that information technology modernization (IT Mod) programming is an ongoing, dynamic project, we cannot provide specific timelines for when we will be able to make any information collection request (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 Paperwork Reduction Act (PRA) approval lifecycle. In the interim, we evaluated this collection for conversion to a submittable PDF and intend to make this conversion within the next 3-6 years, dependent on funding and agency prioritization. Once we have the submittable PDF ready for implementation, we will submit a Change Request to OMB for prior approval.

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 Businesses

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

6. Consequence of Not Collecting Information or Collecting It Less Frequently

If we do not use Form SSA-792, claimants and staff will continue to carry the burden of obtaining the required information to continue benefits within a short timeframe. In addition to the information collection, SSA-792, providing a more efficient method for

collecting payment continuation requests, using this information collection will improve the agency's data collection and recordation of SBC requests, increasing accuracy and efficiency in case processing. The regulations require the individual elect or decline SBC once at the reconsideration level and once at the hearing level, as a result, we cannot collect this information less frequently. There are no other technical or legal obstacles to burden reduction.

7. Special Circumstances

Under current rules, the individual has 10 days from receipt of the determination notice to elect SBC during their appeal of our determination indicating they are no longer disabled. We presume the notice is received within five days from the notice date. Therefore, the individual has up to 15 calendar days to request SBC timely. After the 15-day deadline, the request is considered late. The individual must provide the reason for the late request. Form SSA-792 includes a space to provide an explanation as to why the request was submitted late. The field office evaluates whether the reason for the late submission meets our good cause criteria to accept and process the late election. If both the requests for hearing and SBC election are filed more than 60 days after the date of receipt of the notice of the reconsidered determination, an ALJ will determine whether good cause exists for late filing of both the request for hearing and the election of SBC.

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

The 60-day advance Federal Register Notice published on August 19, 2024 at 89 FR 67141, and we received no public comments. The 30-day FRN published on October 22, 2024 at 89 FR 84431. 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 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

The information collection does not contain any questions of a sensitive nature.

12. Estimates of Public Reporting Burden

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 (minutes)	Total Annual Opportunity Cost (dollars)***

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Reconsideration Appeal Level: Form SSA-792	60,038	1	40	40,025	\$22.39*	24**	\$1,433,856***
Hearing Appeal Level: Form SSA-792	17,107	1	40	11,405	\$22.39*	24**	\$408,573***
Totals	77,145			51,430			\$1,842,429***

* We based this figure on the average of both 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 the average FY 2024 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 (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	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)**
57,859	1	30	28,930	\$647,743**

**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)
77,145	1	30	38,573	\$863,650****

*****We based this dollar amount on the Average Theoretical Hourly Cost Amount in dollars shown on the first 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 and in the burden response time above (first chart above in #12).

We base our burden estimates on current management information data on the yearly average number of medical cessations appealed at the reconsideration and hearing levels. Per our management information data, we believe that **40** 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 collection instrument is **51,430 burden** hours (reflecting SSA management information data), which results in an associated theoretical (not actual) opportunity cost financial burden of **\$1,918,822**. 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 to the respondents.

14. Annual Cost to Federal Government

The annual cost to the Federal Government is approximately \$952,900. 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	\$447
Distributing, Shipping, and Material Costs for the Form	Distribution + Shipping + Material Cost	\$136
SSA Employee (e.g., field office staff) Information Collection and Processing Time	GS-09 employee x # of responses x processing time	\$9 48,896
Full Time Equivalent Cost	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	\$3,420
Quantifiable IT Costs		\$0*
Total		\$952,899

* 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 may 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 information collections.

15. Program Changes or Adjustments to the Information Collection Request

This is a new form that increases the public reporting burden. See question #12 for updated burden figures.

*** Note:** The total burden reflected in ROCIS is **120,861**, while the burden cited in #12 of the Supporting Statement is **51,430**. 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 the OMB approval date. Since SSA does not periodically (e.g., on an annual

basis), revise and reprint its public-use forms, OMB granted this exemption so SSA would not have to destroy stocks of otherwise useable forms with expired OMB approval dates, thereby 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 instrument.