Supporting Statement for Form SSA-561-U2
Request for Reconsideration
20 CFR 404.907-404.921, 416.1407-416.1421, 418.1009, and 418.1325
OMB No. 0960-0622

A. Justification

1. Introduction/Authoring Laws and Regulations

Section *205(b)(1)* of the *Social Security Act (Act)* states that the Social Security Administration (SSA) provides an evidentiary hearing at the reconsideration level of appeal. Upon request by any such individual, or upon request by applicants who show in writing that SSA disadvantaged their rights, the Commissioner shall give such applicant reasonable notice and an opportunity for a hearing with respect to such decision. In addition, if SSA holds a hearing, SSA shall, based on the evidence adduced at the hearing, affirm, modify or reverse the Commissioner's findings of the fact and such decision.

SSA extends this hearing process to comparable cases under *Title XVI* of the *Act* in *20 CFR 404.907* through *404.921*, and *416.1407* through *416.1421* of the *Code of Federal Regulations (Code).* In addition, section *251(a)* of *Public Law 106-169* creates a new *Title VIII*, *Section 809 (a)(1)* of this Title, and extends this hearing process to comparable cases under *Title VIII*.

Section *1869(b)* of the *Act* states that any individual, who is dissatisfied with an initial determination regarding Medicare entitlement, benefits, or coverage, is entitled to a reconsideration of that determination. *Section 105(a)(2)(B)* of *Public Law 103-296* (the *Social Security Independence and Program Improvements Act*, which established SSA as an independent agency) stipulates that SSA and the Department of Health and Human Services (HHS) would share responsibility for the Medicare *(Title XVIII)* appeals process. The process provided for under this statute states that SSA would continue to perform the hearings function for determinations made by SSA about Medicare Part A and Part B entitlement. As required by the *Public Law 103-296*, SSA and HHS continued to negotiate transfer of some of the Medicare appeals functions; in 1995, the two agencies signed an agreement, which transferred to the Medicare Appeals Council within HHS the Medicare appellate review functions that the SSA Appeals Council performs. *Section 931* of *Public Law 108-173* required transfer of the functions of administrative law judges (ALJs) responsible for hearing appeals under *Title XVIII* of the *Act* from SSA to HHS. However, SSA continues to conduct reconsiderations of initial determinations regarding Medicare entitlement. Additionally, since January 2007, SSA makes the determinations regarding Medicare Part B income-related monthly adjustment amount (IRMAA) required under section *1839(i)* of the *Act (Public Law 108-173).* Consistent with the procedure for Medicare entitlement issues, SSA will conduct reconsiderations of initial determinations as provided in *20 CFR 418-1325* of the *Code.*

20 CFR 404.1713 and *416.1513* of the *Code* mandate that claimant representatives use our electronic services at the times and in the manner we prescribe on matters for which they request direct fee payment. The *Requiring Electronic Filing of Appeals for certain Representatives Federal Register Notice* mandates claimants representatives who file a reconsideration request on a client's behalf and request direct fee payment on the matter use the i506.

2. **Description of Collection**

If an individual was recently denied Social Security benefits for medical or non-medical reasons, they may request an appeal of the decision. Their request must be in writing and received within 60 days of the date they receive the letter containing the agency's decision. There are generally four levels of appeals an individual can appeal through. This information collection pertains to the first of these, "reconsideration." Reconsideration involves a complete review of the individual's claim by someone who did not take part in the first decision. The agency will look at all the evidence submitted when the original decision was made, plus any new evidence. Additional general information about SSA's appeals processes can be found at https://www.ssa.gov/pubs/EN-05-10041.pdf.

To initiate the appeals process and request reconsideration of the initial determination, a claimant, recipient, or beneficiary should complete paper Form SSA-561-U2, or use the iAppeals Internet application (i561) to initiate a request for reconsideration of an initial determination. When a respondent chooses to submit their information either via the paper SSA-561-U2, or verbally through a personal interview at an SSA field office, SSA employees utilize the associated Modernized Claims Systems (MCS) or Supplemental Security Income (SSI) Claims Systems to directly input appeal information from a claimant, recipient, or beneficiary into the agency's internal systems.

SSA uses this information collection for reconsiderations related to Social Security Retirement, Survivors, and Disability Insurance benefits *(Title II);* SSI payments *(Title XVI);* Special Veterans Benefits *(Title VIII);* Medicare *(Title XVIII);* and for initial determinations regarding Medicare Part B income-related premium subsidy reductions. SSA notes that certain programs have multiple options for appealing during the initial reconsideration, and that the office responsible for reviewing the reconsideration appeal may be different depending on the program the respondent has applied to and whether or not the appeal is for medical or non-medical reasons.

If the appeal is for medical reasons, the respondent will also need to complete form SSA-3441 (*Disability Report – Appeal*; OMB Control Number 0960-0144) prior to their hearing. Medical reconsiderations are reviewed by Disability Determination Services. If the appeal is for non-medical reasons, for *Title II* applicants the Payment Center will make a determination, and for *Title XVI* applicants the field office will make a determination. Per our regulations at *20 CFR 416.1413* and *416.1413a,* SSI

(Title XVI) and SVB (Title VIII) recipients have three options to choose from when filing an appeal on a non-medical issue. Per our regulation at *20 CFR 404.913*, Title II beneficiaries only have one option, a case review, on a non-medical issue.

This information collection would not be used for beneficiaries who are found to be no longer disabled based off of a continuing disability review determination. Individuals seeking a reconsideration following a CDR determination would use SSA-789, Request for Reconsideration - Disability Cessation Right to Appear (OMB Control Number 0960-0349).

3. **Use of Information Technology to Collect the Information**
In accordance with the agency's Government Paperwork Elimination Act plan, SSA created an Internet version of form SSA-561-U2, the i561 for medical and non-medical reconsideration request, as part of our iAppeals application. Based on our data, we estimate approximately 62% of respondents under this OMB number use the electronic version. Respondents who wish to file a request for reconsideration may do so using an Internet version of the SSA-561-U2, the i561, through our iAppeals application. Information from the i561 medical reconsideration request propagates into SSA's MCS and the SSI Claims System. For non-medical reconsideration requests, technicians transfer the information to MCS and the SSI Claims System. The collection instrument is also available through MCS and the SSI Claims Sysetm to respondents who file a request for reconsideration by mail or through a personal interview in a field office.

4. **Why We Cannot Use Duplicate Information**
The nature of the information SSA collects and the manner in which 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 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-561-U2, or the electronic versions (MCS, the SSI Claims System, and the i561), the public would not be able to explain their reasons for requesting reconsideration including recent information in the evaluation or having SSA's determination of the Medicare Part B income-related monthly adjustment amount reconsidered. Therefore, we cannot collect the information less frequently. There are no technical or legal obstacles that prevent 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 July 3, 2019, at 84 FR 31972, and we received the following public comments:

- *Comment*: The commenter criticized our time estimates for the Internet application, i561, stating that the estimates we provide are a severe underestimate, and claiming that respondents need to complete the i561, as well as input background information and medical information. The commenter also cited our "Getting Ready" section that states, "This appeal may take 60 minutes or longer to complete." In addition, the commenter stated that, while additional information about the claimant's medical treatment, medications, functional limitations, activities, education, and training may have practical utility, SSA should not require this information to request a reconsideration or ALJ hearing. The commenter believes that SSA should only request the information on the i561 that we include on the paper forms, and not require any additional information in the iAppeals System.

    - *SSA Response*: The time estimates we provide for the appeals forms are for completion of Form SSA-561/i561 (0960-0622) only. The paper Form SSA-561 takes longer to complete because claimants must write in rather than type in their responses to the questions on the form. Claimants submit the SSA-561/i561 when they appeal a decision on a non-disability or disability issue. While our general policy states that a claimant can submit additional evidence along with the SSA-561/i561, it is not a requirement. However, the disability policy includes specific requirements on collecting additional evidence when a claimant files an appeal, including the submission of Form SSA-3441/i3441 (OMB #0960-0144). Our time estimates for the SSA-561/i561 do not include the time it takes to complete the SSA-3441/i3441, or the submission of evidence required for that form. For the SSA-3441/i3441, we include the remaining time estimate shown in iAppeals in the PRA Statement on the screens for the i3441, and within the burden data we provide for the SSA-3441/i3441 under its unique OMB Control Number (0960-0144). The time estimate for the SSA-3441/i3441 in combination with the time estimate for the SSA-561/i561 brings the total estimated time for an iAppeals request to approximately 60 minutes. As stated in our iAppeals Terms of Service, and by staff in the field office to those using our paper appeals process, we ask respondents who choose to fill out the paper forms to complete the SSA-3441 as well, at the time of appeal. However, simultaneous submission of the SSA-3441 with the SSA-561 is not required in the paper appeals process. For iAppeals submissions, we require the i3441 before we can process a request for reconsideration or request for an ALJ hearing using the electronic appeals process.

- *Comment*: The commenter stated that SSA is not in compliance with our

regulations regarding our electronic, iAppeals process. The commenter suggested that SSA should state in our iAppeals system that a paper process exists; provide a link to the pdf version of the appropriate paper form; and explain how the respondents can submit the paper forms. The commenter mentioned that this would still not make the electronic process compliant with regulations, but would better inform claimants about their options.

- *SSA's Response*: Our regulations provide that claimants who seek reconsideration or a hearing may do so by filing a "written request" within 60 days of the date they receive notice of our determination. These regulations give us the authority to establish mechanisms by which a claimant can file the "written request" to appeal a determination. We explained this interpretation of our regulations in Social Security Ruling (SSR) *19-3p, Requesting Reconsideration or Hearing by an Administrative Law Judge*, which we published in the Federal Register on August 14, 2019, at 84 FR 40467.

  Through *SSR 19-3p*, we explained our policy that a claimant may file a "written request" for appeal using either the paper-based appeals process, or our iAppeals system. The SSR explains several things, including that claimants who choose to use iAppeals to request an appeal must complete the full electronic appeals application to file the appeal electronically. Completing the full electronic appeal application requires claimants to answer questions from both the standard appeals request forms (SSA-561/i561 and HA-501/i501) and the disability report form (SSA-3441/i3441). However, iAppeals offers several flexibilities for claimants, as it: permits claimants to leave questions blank if they are not applicable; allows claimants to indicate they need additional time to collect specific evidence; and enables claimants to partially complete an electronic appeal application and save it to return to finish it later (so long as they return and submit it within the regulatory appeal period). Claimants must file their appeals, whether using the paper or electronic appeals process, within the 60-day regulatory appeals period.

  While there are some differences between our paper and electronic appeals options for filing a request for reconsideration or hearing, the substantive standards we use to evaluate a claimant's appeal request remain the same regardless of the option the claimant chooses to use to submit the appeal.

  In response to the request that we include information about the paper process on our iAppeals screens, the iAppeals "Getting Ready" Screen, "More Information" Section includes the "Other Ways to Complete a Disability Appeal" link. The "Other Ways to Complete a Disability Appeal" Screen provides information on how to determine the appeal level;

how to obtain the PDF or paper versions of the forms; and where to submit the appeals forms. The page also links to the Forms page, which includes the forms claimants need to file their appeals. The Terms of Service also explains other ways for claimants to file their appeals.

- *Comment*: The commenter noted that the words "information" and "question" are misspelled in the "Follow-up" section on page 1 of the screenshots, and that the text switches from second person to third person ("After you are finished…The claimant can log in"). The commenter stated that the switch from second to third person is confusing.

    - *SSA Response: SSA Response:* The words "question" and "information" were misspelled on the screen shots for the Getting Ready Screen – Follow-up Section in the version we submitted. However, these words are spelled correctly on the iAppeals Getting Ready Screen – Follow-up Section accessed by our claimants. We have already corrected the misspelling. In addition, we also corrected the issue with the use of second and third person tenses on our accessible iAppeals screens.

- *Comment:* The commenter expressed concern over the wording of our new Terms of Service (TOS), stating that SSA should not list all of the items we list as requirements for completing iAppeals, and that SSA's new TOS indicates that claimants cannot complete their appeals electronically if they did not have all of the information stated in the TOS.

    - *SSA Response:* The purpose of the TOS is to ensure that claimants know and understand the information they will need to complete their appeals electronically. However, not having that information does not prevent claimants from filing their appeals electronically. The TOS – I Acknowledge – Reconsideration and Hearing Sections explain what actions claimants can take if they do not have all of the information for their appeals. The TOS - If you do not wish to complete your appeal section also provides other ways for claimants to file an appeal when they do not have the information they need to file their appeals electronically within the 60-day appeal period or do not want to file their appeals electronically.

- *Comment:* The commenter included concerns over the medical information we listed in the checklist on p.57 of the i501 screen shots, and p.56 of the i561 screen shots. The commenter believes we should not include this information as "information you need to complete your disability appeal" as it is not required by regulation. Rather, SSA should explain on the iAppeals screens that medical information is not necessary, but, if the respondents do not provide it, SSA's decision is more likely to be a denial of the request. In addition, the commenter also stated that the checklist is numbered incorrectly.

- *SSA Response*: The "Information You Need To Complete Your Disability Appeal" section has been a part of iAppeals from the beginning. As of this update, the only difference is that claimants have the option to print the checklist. The printed checklist will allow claimants to keep track of evidence as they gather it.

  The comments also stated that the numbering on the screenshot of the checklist was inaccurate. The checklist available to the public is not numbered.

- *Comment:* The commenter stated that the screens shots do not explain which, if any, of the fields in the "medical" or "activities/training" section are mandatory. In addition, the commenter stated that, since the regulations do not require this information for appeal, SSA should not require any of these fields, and the screens should explain that this information is optional.

  - *SSA Response:* The medical and activities/training fields are part of the SSA-3441/i3441 (OMB #0960-0144) and are not covered under the SSA-561/i561. However, *SSR 19-3p* states that claimants who choose to use iAppeals to request an appeal must complete the full electronic appeal application to file the appeal electronically. Completing the full electronic appeal applications requires claimants to answer questions from both the standard appeal request form (SSA-561/i561) and the disability report form (SSA-3441/i3441). However, there are processes within iAppeals that offer some flexibilities for claimants who are not immediately prepared to respond to both collections in one sitting: claimants can leave questions blank if they are not applicable; claimants can indicate they need additional time to collect specific evidence by providing specific responses in certain text boxes based off of the guidance included in the Terms of Service for iAppeals; and claimants can partially complete an electronic appeal application and save it to return to finish it later (so long as they return and submit it within the regulatory appeal period). Claimants must file their appeals, whether using the paper or electronic appeals process, within the 60-day regulatory appeals period.

- *Comment:* The commenter made the following suggestions for improving our Re-entry Screen for iAppeals Disability requests:
  - Explain and provide a deadline date for filing the appeal.
  - Explain filing a late appeal, and writing, and providing a good cause statement if the appeal is not filed within the 60-day appeal period

  - *SSA Response:* We will consider these suggestions and share them with internal stakeholders. However, implementation of the suggestions

depends on viability, internal stakeholder consensus, and resources.

- *Comment:* The commenter made the following suggestions for improving our Identification (3rd party applicant) Screen for iAppeals Disability requests:
    - Provide an example sentence that uses the word gender. An example will help claimants understand the purpose of the question.

    - *SSA Response*: The agency acknowledges that the information gained from the question pertaining to gender provides no practical utility and we do not require it for the proper performance of the functions of the agency. However, the question currently has system logic associated with it, as there are numerous instances within *iAppeals* pages where the questions are customized based off of the gender value provided (for example, "Describe **his** medical conditions"). This creates short-term resource barriers to removing this question. Removing this question will depend on viability, internal stakeholder consensus, and resources.

- *Comment:* The commenter made the following suggestions for improving the iAppeals Information about the applicant Screen for non-medical appeals:
    - Add the words "or beneficiary" because a person filing a non-medical appeal may already be receiving benefits.

    - *SSA Response:* We will consider this suggestion and share it with internal stakeholders. However, implementation of the suggestion depends on viability, internal stakeholder consensus, and resources.

- *Comment:* The commenter made the following suggestions for improving the Notice Information Screen for non-medical appeals:
    - Clarify the questions in order to provide additional guidance concerning the claimants to the appropriate appeal level.

    - *SSA Response:* We will consider this suggestion and share it with internal stakeholders. However, implementation of the suggestion depends on viability, internal stakeholder consensus, and resources.

The 30-day FRN published on September 16, 2019 at 84 FR 48694. If we receive any comments in response to this Notice, we will forward them to OMB.

We consulted with five advocacy group participants for two iAppeals Single Submission Conference Calls and meetings regarding current the iAppeals Internet application. We asked these advocacy groups for their concerns related to the single submission practice for iAppeals, which OMB approved in March 2015. During the conference calls and meetings, the advocacy participants shared their experiences illustrating the practical challenges they encountered using iAppeals since the

implementation of single submission. They also expressed concerns regarding the single submission practice. Based on their feedback, SSA agreed to continue internal discussions on ways to improve the iAppeals application, including improvements to the single submission practice.

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 a Field Office (minutes)****	**Total Annual Opportunity Cost (dollars)*****
SSA-561 and Modernized Claims System (MCS)	330,370	1	8	40,049	$11.70*	24**	$2,014,705***
i561 (Internet iAppeals)	1,161,300	1	15	290,325	$11.70*		$3,396,803***
Totals	**1,461,670**			**330,374**			**$5,411,508****

* We based this figure on average DI payments based on SSA's current FY 2022 data (https://www.ssa.gov/legislation/2022factsheet.pdf).

** We based this figure on the average FY 2022 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)****
330,370	1	30	165,185	$1,932,665****

****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 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 15 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. The total burden for this collection instrument is **330,374** burden hours (reflecting SSA management information data), which results in an associated theoretical (not actual) opportunity cost financial burden of **$7,344,173**. SSA does not charge respondents to complete our applications.

NOTE: The completion of 0960-0622 only requires providing limited information

regarding the respondent or beneficiary and the reason for appeal. SSA recognizes that for most appeals, the respondent will also provide updated medical information using Form SSA-3441 (or i3441 Internet screens), Disability Report – Appeal (OMB Control No. 0960-0144). We capture the burden associated with Form SSA-3441, and any other information collections associated with a reconsideration or ALJ hearing, under their appropriate OMB Control Numbers [(0960-0622 (SSA-561), 0960-0269 (HA-501), and 0960-0144 (SSA-3441)]. We do not show that burden here.

13. **Annual Cost to the Respondents (Other)**
This collection does not impose a known cost burden to the respondents.

14. **Annual Cost to the Federal Government**
The annual cost to the Federal Government is approximately $1,533,907. This estimate accounts for costs from the following areas: (1) designing, printing, and distributing the form; (2) SSA employee (e.g., field office, 800 number, DDS staff) information collection and processing time; and (3) systems development, updating, and maintenance costs.

15. **Program Changes or Adjustment to the Information Collection Request**
We updated the burden for reviewing the Terms of Service, based on OMB's request. We made no other adjustments to the burden for this information collection.

* Note: The total burden reflected in ROCIS is **627,707**, while the burden cited in #12 of the Supporting Statement is **330,374**. 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. 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**
For the paper Form SSA-561-U2, SSA will not publish 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.

For the internet application, i561 (iAppeals), SSA is not requesting an exception to the requirement to display the OMB approval expiration date.

18. **Exemption 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.