

**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). Therefore, the Social Security Administration (SSA) designated Form SSA-773-U4, Waiver of Right to Appear – Disability Hearing, to capture this necessary documentation.

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 either through the Upload Documents application, or through a personal interview with field office (FO) staff; Disability Determinations Service (DDS) staff; or Disability Hearing Unit (DHU) staff to ensure the individual understands the due process rights associated with the decision to waive personal appearance at a disability hearing by a DHO. SSA conducts these personal interviews either in person or via telephone with the claimants or their representatives. Once SSA obtains the information on the SSA-773-U4, the DHU uses the electronically 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.

We have no history of Psychological Costs associated with the SSA-773-U4 as the form requests minimal personal information and does not ask questions regarding the respondent's medical condition or finances. In addition, the form is initiated by respondents when they wish to waive their right to appear at a disability hearing, and is, therefore, a voluntary use form.

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. SSA added Form SSA-773-U4 to the Upload Documents Portal, OMB No. 0960-0830, which allows a fully electronic completion of the form. We estimate approximately 30% of respondents for this collection use the fillable PDF version, which includes a visit to the FO.

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 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 maintenance of this form.

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

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-773-U4 (telephone and field office interview)	1,306	1	3	65	\$13.30*	21**	\$64,053***
SSA-773-U4 (upload documents)	3,050	1	3	153	\$13.30*		\$2,035***
Total	4,356			218			\$66,088***

* We based this figure on average DI payments based on SSA’s current FY 2024 data (<https://www.ssa.gov/legislation/2024FactSheet.pdf>).

** We based this figure on the average FY 2024 wait times for field offices or 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 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 estimate approximately 30% of respondents for this collection use the fillable PDF version, which includes a visit to the FO. 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)****
1,306	1	30	653	\$8,685****

**** 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.

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):

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

Total Number of Respondents	Frequency of Response	Estimate Learning Cost (minutes)	Estimated Total Annual Burden (hours)	Total Annual Learning Cost (dollars)**
4,356	1	3	218	\$2,899*****

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 3 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 **218** burden hours (reflecting SSA management information data), which results in an associated theoretical (not

actual) opportunity cost financial burden of **\$74,773**. SSA does not charge respondents to complete our applications.

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 \$10,255. 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	\$216
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	\$6,619
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	\$3,420
Quantifiable IT Costs	Any additional IT costs	\$0*
Total		\$10,255

*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

When we last cleared this IC in 2021, the burden was 10 hours. However, we are currently reporting a burden of 218 hours. This change stems an increase in the number of responses from 200 to 4,356. This change also stems from the COVID operations suspension of hearings in 2020 and then the limited manners of appearance in 2020 and 2021, and, finally, resuming normal processing in 2022. In addition, we issued an Emergency Message during COVID that contained

reminders and instructions for completion of the SSA-773-U4. Since we have reinstated the full hearings process, we noted an increase in responses that are closer to pre-COVID burden figures. These figures represent current Management Information data.

* **Note:** The total burden reflected in ROCIS is **1,328**, while the burden cited in #12 of the Supporting Statement is **217**. 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-773-U4, we 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 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.

For the **Internet version** of form SSA-773-U4 (through Upload Documents, 0960-0830), SSA is not requesting an exception to the requirement to display the OMB approval expiration date.

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.