

Supporting Statement for Form SSA-1691
Social Security Administration Eligible Non-Attorney Representative
20 CFR 404.1717, 404.1745 - 404.1799, 416.1517, and 416.1545 - 416.1599
OMB No. 0960-0699

A. Justification

1. Introduction/Authoring Laws and Regulations

Section 3 of the *Social Security Disability Applicants Access to Professional Representation Act (PRA) of 2010, Public Law (Pub.L.) 111-142*, permanently extends the direct payment provision of Section 303 of the *Social Security Protection Act (SSPA) of 2004, Pub.L. 108-203*. The *PRA* permits the Social Security Administration (SSA) to extend direct payment of approved fees from claimants' past-due benefits to certain non-attorney representatives. Prior to the enactment of the *SSPA* and *PRA*, only attorneys could receive direct payment of SSA-approved fees. Under the *PRA*, non-attorneys must meet the following prerequisites to be eligible for direct payment of fees:

- Have been awarded a bachelor's degree from an accredited institution of higher education, or at least four years of relevant professional experience and either a high school diploma or General Education Development (GED) certificate;
- Pass a written examination that the Social Security Administration (SSA) writes and administers which tests the knowledge of the relevant provisions of the *Social Security Act (Act)* and the most recent developments in SSA and court decisions affecting the benefit programs under Titles *II* and *XVI* of the *Act*;
- Secure and maintain continuous professional liability insurance or equivalent insurance to protect claimants in the event of malpractice by the non-attorney representative;
- Pass a criminal background check; and
- Demonstrate ongoing completion of continuing education courses, including courses in ethics and professional conduct, to enhance professional knowledge in matters related to entitlement to, or eligibility for, benefits based on disability under Titles *II* and *XVI* of the *Act*.

The *PRA*, as did the *SSPA*, requires SSA to collect the information needed to determine if applicants satisfied these prerequisites. Under the *SSPA*, we used the Social Security Administration Non-Attorney Representative Demonstration Project Application to collect applicants' prerequisite information. SSA codified these rules in 20 CFR 404.1717, 404.1745-404.1799, and 20 CFR 416.1517, 416.1545-416.1599 of the *Code of Federal Regulations*.

2. Description of Collection

The information we collect helps us determine whether an applicant fulfilled the statutory prerequisites and regulatory requirements as listed in item number 1

above. To verify this information, we collect the following items, in addition to the application:

- a signed criminal background form, allowing us to conduct criminal background checks;
- ;contact information of applicant for future notifications
- professional or business liability insurance policies from applicants who pass the examination;
- high school transcripts, diplomas, or GED certificates and proof (e.g., Internal Revenue Service Form W-2(s) and wage and tax statement(s)) of relevant professional experience from applicants who pass the examination, but do not possess a bachelor's degree or higher;
- .

Every year, SSA evaluates the applications, conducts verification investigations, and issues recommendations regarding applicants' eligibility to sit for the examination and eligibility to receive direct payment. Part of the evaluation is the verification of educational and relevant professional experience. The kinds of proof we accept to verify the education requirement include, but are not limited to copies of an official college transcript, copies of an Internal Revenue Service Form W-2 (Wage and Tax Statement), or letter from an applicant's employer verifying the length and type of employment. In addition, one of the requirements for direct payment is the completion of continuing education credits. To meet these credits, eligible non-attorneys view training guides and materials, including but not limited to PowerPoint presentations, or Webinars, on ethics, professional conduct, disability listings, etc. which SSA makes available on the Social Security Website. These non-attorneys certify they took the training by sending us an email message acknowledging their completion of the training within a specified period as we directed. In addition, the non-attorneys protest some of our decisions per (e.g, unfavorable background check, application not accepted, exam not passed, CE certification not accepted). Our responses are final. The respondents are non-attorneys who want to receive direct payment of their fees for representational services before SSA.

3. **Use of Information Technology to Collect the Information**

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.

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. 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 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 the application, the applicants would have no way to apply to become eligible to receive direct payment. This would be in violation of regulations at *20 CFR 404.1717*. Since the applicants must submit their applications during the yearly application period within the time we prescribe, we cannot collect the information less frequently. There are no technical or legal obstacles to burden reduction.
7. **Special Circumstance**
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 February 21, 2017, at 82 FR 11293, and we received no public comments. The 30-day FRN published on May 5, 2017 at 82 FR 21291. 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 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**
Estimates in parentheses represent annual numbers. Eligibility for direct pay varies monthly based on multiple factors; consequently, it is difficult to develop estimates for new respondents. Figures are based on 900 non-attorney representatives eligible for direct pay.

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)*	Total Annual Opportunity Cost (dollars)
New Respondents – Paper Application (complete and submit) – 404.1717(b)&(c); 416.1517(b)&(c)	156	1	45	117	\$26.45*	\$3,09
New Respondents - Submission of proof of Bachelor’s Degree or Equivalent Qualifications – 404.1717(a)(3); 416.1517(a)(3)	75	1	30	38	\$26.45*	\$1,00
New and Existing Respondents - CE Submission via email/mail/or FAX of training courses taken as prescribed by SSA – 404.1717(a)(7); 416.1517(a)(7)	900	1	20	300	\$26.45*	\$7,93
New and Existing Respondents - Proof of Continuous Professional or Business Liability Insurance Coverage (Scan and Email) – 404.1717(a)(6); 416.1517(a)(6)	750	1	10	125	\$26.45*	\$3,30
New and Existing Respondents - Proof of Continuous Professional or Business Liability Insurance Coverage (Copy and Mail) - 404.1717(a)(6);	150	1	15	38	\$26.45*	\$1,00

416.1517(a)(6)						
New and Existing Respondents - Written Protests – 404.1717(d); 416.1517(d)	15	1	45	11	\$26.45*	\$29
Totals	2,046			629		\$16,16

* We based this figures on average Paralegal’s hourly salary, as reported by Bureau of Labor Statistics data. . https://www.bls.gov/oes/current/oes_nat.htm

** 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.**

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 40 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 ICR is **935** burden hours (reflecting SSA management information data), which results in an associated theoretical (not actual) opportunity cost financial burden of **\$24,731**. SSA does not charge respondents to complete our applications.

13. **Annual Cost to the Respondents (Other)**

This collection imposes a one-time application fee of \$1000 per applicant.

14. **Annual Cost To Federal Government**

The annual cost to the Federal Government is approximately **\$234,606**. This estimate accounts for costs from the following areas:

Description of Cost Factor	Methodology for Estimating Cost	Cost in Dollars*
Designing, Printing, and Distributing the Form	Design Cost + Printing Cost + Distribution Cost	\$1,299
SSA Employee (e.g., field office, 800 number, DDS staff) Information Collection and Processing	GS-9 employee x # of responses x processing time	\$104,475

Time		
Systems Development, Updating, and Maintenance	GS-9 employee x man hours for development, updating, maintenance	\$1,368
Cost of contract	This is a 5-year contract. The number listed is an average for one year.	\$127,464
Total		\$234,606

15. **Program Changes or Adjustments to the Information Collection Request**
When we last cleared this IC in 2017, the burden was 2,065 hours. However, we are currently reporting a burden of 1,878.75 hours. This change stems an increase in the number of responses from 976 to 2,199. There is no change to the burden time per response. Although the number of responses changed, SSA did not take any actions to cause this change. These figures represent current Management Information data.
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. Collection of Information Employing Statistical Methods

SSA does not use statistical methods for this information collection.