

# **SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION**

## **Eligibility Questionnaire for HAVANA Act Payments OMB Control Number 1405-0250 DS-4316**

### **A. JUSTIFICATION**

#### *1. Why is this collection necessary and what are the legal statutes that allow this?*

On October 8, 2021, President Biden signed the “Helping American Victims Affected by Neurological Attacks” (HAVANA) Act of 2021 (Public Law 117-46). In this statute, Congress authorized federal agencies to make payments to affected current employees, former employees, and their dependents (hereinafter, “claimants” or “patients”) for qualifying injuries to the brain. This law requires the Department (and other agencies) to “prescribe regulations” implementing the HAVANA Act not later than April 6, 2022. The Department published an interim final rule (IFR), which fulfilled the mandate of the HAVANA Act. As described below, the DS-4316 is providing the required medical substantiation for claims filed pursuant to the HAVANA Act and the Department’s rule.

#### *2. What business purpose is the information gathered going to be used for?*

An individual wishing to make a claim under the HAVANA Act IFR will fill out the “Patient Demographics” portion of the DS-4316, and provide it to a U.S. board-certified physician (currently certified by the American Board of Psychiatry and Neurology (ABPN) or the American Board of Physical Medicine and Rehabilitation (ABPMR)), who will complete the form after examining the individual and reviewing their records, and will fax or email the completed form to the Department. The physician’s findings will be instrumental in determining the individual’s eligibility for payment under the HAVANA Act.

As noted in the IFR, the Department believes most respondents to this information are already known to the agency due to prior reporting regarding the AHI the respondent believes they have experienced. Nevertheless, the Department notes that this form, which is available on [efrms.state.gov](https://efrms.state.gov), can be completed by any Department employee, covered individual, or covered dependent as a way of beginning an application for a HAVANA Act payment.

Respondents to this information collection are individuals who believe they are eligible for payment under the HAVANA Act (Part 1 of the form) and physicians currently certified by the ABPN or the ABPMR responsible for evaluating their symptoms and impairment (Part 2 of the form).

3. *Is this collection able to be completed electronically (e.g., through a website or application)?*

The DS-4316 is available for download on the Department's public forms site, [efrms.state.gov](https://efrms.state.gov). The form will be completed by the claimant and board-certified physician by hand. Given that the physician will not be associated with the Department and due to the sensitive information on the form, there cannot at this time be end-to-end electronic completion of the DS-4316.

4. *Does this collection duplicate any other collection of information?*

The information collected on this form from physicians is not otherwise available to the Department and is necessary to process the claim for payments under the HAVANA Act and IFR. The information collected from claimants may be included in other collections of information.

5. *Describe any impacts on small business.*

Where the physician represents a small business, the collection of this information would be no more than the type of examination he would perform in the normal course of their business.

6. *What are consequences if this collection is not done?*

Without this collection the Department will be unable to process claims for payments pursuant to the HAVANA Act.

7. *Are there any special collection circumstances?*

No special circumstances exist.

8. *Document publication (or intent to publish) a request for public comments in the Federal Register*

On September 9, 2022, The Department published a notice in the *Federal Register*, soliciting comments for 60 days. 87 F.R. 55456. No comments were received.

On April 21, 2022, the Department requested that OIRA provide emergency approval prior to April 30, 2022, for use of the DS-4316. On June 30, 2022, the Department published an interim final rule to implement the HAVANA Act (87 FR 38983). The public had an opportunity to submit comments on the rule and the form for 30 days. Based on preliminary review of the comments, on August 9, 2022, the Department published a Supplemental IFR adding physicians currently certified by the American Board of Physical Medicine and Rehabilitation to the categories of physicians that are able to complete the DS-4316. The original IFR and the Supplemental IFR went into effect on the same day (August 15, 2022).

9. *Are payments or gifts given to the respondents?*

The DS-4316 is a form by which required information is provided to the Department payments, but no payment or gift is provided to respondents for completing the form.

10. *Describe assurances of privacy/confidentiality*

Medical records and other medical information associated with a particular individual may be governed under the Privacy Act of 1974, 5 U.S.C. § 552a, the Rehabilitation Act, 42 U.S.C. § 12112(d) and any provisions of law applicable to the records of the physician. There are no assurances of confidentiality.

*11. Are any questions of a sensitive nature asked?*

The DS-4316 requires a physician to document information regarding a claimant's medical status.

*12. Describe the hour time burden and the hour cost burden on the respondent needed to complete this collection.*

*(a) Hour time burden:*

The Department expects that approximately 100 claimants will submit the DS-4316 to a physician each year. It is estimated that the physician will spend, on average, 30 minutes completing their portion of the form. Therefore, the annual hour burden for the physicians is estimated to be 50 hours<sup>1</sup>.

Each form will cover two respondents: the claimant (who might not be a federal employee) and the board-certified physician. The Department estimates that the "Patient Demographics" portion of the form will take less than a minute for the patient to complete. Although that burden is *de minimus*, the patient must be examined by a board-certified physician. It is not possible to know the burden associated with the claimant being seen by a physician. However, the Department proposes an estimate of 30 minutes travel time for the average claimant to consult with the physician in person. This yields a total burden for claimants of 50 hours (30 minutes times number of claimants).

Total burden hours for this collection: Burden for claimants + burden for physicians = 100 hours.

*(b) Hour cost burden:*

Based on an average hourly wage for all physicians of \$111.30<sup>2</sup>, the weighted wage hour cost burden for physicians in this collection is \$8,347.50. This is based on the calculation of \$111.30 (average hourly wage) x 1.5 (weighted wage multiplier) times 50 hours.

For claimants, based on an average hourly wage of \$28.01<sup>3</sup>, the weighted wage hour cost burden for this collection is \$2,100. This is based on the calculation of \$28.01 (average hourly wage) x 1.5 (weighted wage multiplier) times 50 hours.

Total cost burden for this collection: cost burden for physicians + cost burden for claimants = \$10,447.50.

*13. Describe the monetary burden to respondents (out of pocket costs) needed to complete this collection.*

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<sup>1</sup> Number of respondents times number of minutes, divided by 60.

<sup>2</sup> Source: Data from the U.S. Bureau of Labor Statistics, Occupational Employment and Wages, May 2021, Wage Estimates for physicians (<https://www.bls.gov/oes/current/oes291229.htm>). Retrieved April 16, 2022.

<sup>3</sup> Source: Data from the U.S. Bureau of Labor Statistics May 2021 National Occupational Employment and Wage Estimates for all occupations ([https://www.bls.gov/oes/current/oes\\_nat.htm#23-0000](https://www.bls.gov/oes/current/oes_nat.htm#23-0000)). Retrieved April 16, 2022.

There is no out of pocket cost for the respondents associated with submission of this collection. The claimant is responsible for the cost of the examination.

*14. Describe the cost incurred by the Federal Government to complete this collection.*

A team within the Department of State (the Care Coordination Team) reviews the information on the completed form. The information on the form would be combined with other information available to the Department to make a recommendation on whether payment under the HAVANA Act is appropriate. The Team is also responsible for informing claimants if there is incomplete or contradictory information and providing any other notifications to them.

The Department estimates that, on average, it will take approximately 8 hours for the Care Coordination Team to review and process a claim to present to Department leadership. Therefore, approximately 800 hours annually will be dedicated to reviewing incoming forms. The average wage of a Team member is \$51.36 per hour. The Department estimates that this information collection will cost the Federal Government \$41,088 for fiscal year 2022.

*15. Explain any changes/adjustments to this collection since the previous submission*

There have been no changes to this collection since the previous approval.

*16. Specify if the data gathered by this collection will be published.*

The data gathered by this collection will not be published.

*17. If applicable, explain the reason(s) for seeking approval to not display the OMB expiration date. Otherwise, write "The Department will display the OMB expiration date."*

The Department will display the OMB expiration date.

*18. Explain any exceptions to the OMB certification statement below. If there are no exceptions, write "The Department is not seeking exceptions to the certification statement".*

The Department is not seeking exceptions to the certification statement.

**B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS**

This collection does not employ statistical methods.