

**Supporting Statement for Notice Regarding
Substitution of Party Upon Death of Claimant – HA-539
20 CFR 404.957(c)(4) and 416.1457(c)(4)
OMB No. 0960-0288**

A. Justification

1. Introduction/Authoring Laws and Regulations

Sections 20 CFR 404.957(c)(4) and 416.1457(c)(4) of the *Code of Federal Regulations* provide that a judge may dismiss a request for hearing on a pending claim of a deceased individual, unless other individuals make a written request showing they may be adversely affected by dismissal of the request. Sections 205(a), 1631(e), and 1869(b)(1) and (c) of the *Social Security Act (Act)* provide the authority for SSA to require submission of this information before we proceed with the claim.

2. Description of Collection

An ALJ may dismiss a request for a hearing on a pending claim of a deceased individual for Social Security benefits or Supplemental Security Income (SSI) payments. Prior to dismissing the request, the Office of Hearing Operations (OHO) must develop the file to determine if there are any potential parties who would be adversely affected by the dismissal. If potential parties exist, OHO will send notice to them and provide 10 days from the date of the notice to submit a request to substitute parties.

Individuals who believe the dismissal may adversely affect them may complete Form HA-539, which allows them to request to become a substitute party for the deceased claimant. The ALJs and the hearing office support staff use the information from the HA-539 to: (1) maintain a written record of the request; (2) establish the relationship of the requester to the deceased claimant; (3) determine the substituted individual's wishes regarding an oral hearing or decision on the record; and (4) admit the data into the claimant's official record as an exhibit. The respondents are individuals requesting to be substitute parties for a deceased claimant.

3. Use of Information Technology to Collect the Information

Form HA-539 is available as a fillable portable document format (PDF) on SSA's website for individuals to complete, print, and mail to SSA for processing. SSA only accepts Form HA-539 through USPS mail. 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 1-3 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 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 HA-539, we might inadvertently deny individuals who qualify for benefits under the claim of a deceased individual the right to pursue the claim. Because we only collect this information on an as needed basis, we cannot collect it 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 27, 2021, at 86 FR 40221, and we received no public comments. The 30-day FRN published on September 29, 2021 at 86 FR 54007. 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 revision 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)*	Total Annual Opportunity Cost (dollars)**
HA-539	4,000	1	5	333	\$13.30*	\$4,429**

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

** 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.**

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 the average time in minutes listed in the chart above 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 333 burden hours (reflecting SSA management information data), which results in an associated theoretical (not actual) opportunity cost financial burden of **\$4,429**. 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 on the respondents.

14. **Annual Cost To Federal Government**

The annual cost to the Federal Government is approximately **\$15,017**. 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	\$320
Distributing, Shipping, and Material Costs for the Form	Distribution + Shipping + Material Cost	\$3,990
SSA Employee (e.g., field office,	GS-9 employee x # of responses x processing	\$7,287

800 number, DDS staff) Information Collection and Processing Time	time	
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		\$15,017

* 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. First, since we work with almost every US citizen, we often do bulk mailings, and cannot track the cost for a single mailing. We do not track design costs or upkeep costs (as these are based on employee time and may vary from collection to collection). In addition, it is difficult for us to break down the cost for processing a single form, as field office and State Disability Determination Services staff often process 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. Finally, SSA prefers not to provide breakdowns of estimated payment to employees who process these items for a variety of reasons (only one of which is that it is not possible to do this entirely accurately).

15. **Program Changes or Adjustments to the Information Collection Request**

There are no changes to the public reporting 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 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. Collections of Information Employing Statistical Methods

SSA does not use statistical methods for this information collection.