

**SUPPORTING STATEMENT FOR MEDICARE PART B INCOME-RELATED
MONTHLY ADJUSTMENT AMOUNT**

20 CFR 418.1001 – 418.1355

FINAL RULES

OMB No. 0960-NEW

A. Justification

**1. Need for the Information Collection and Legal/Administrative
Justification**

Section 811 of the *Medicare Prescription Drug, Improvement, and Modernization Act of 2003* (also known as the *Medicare Modernization Act* or *MMA*) added section 1839(i) to the *Social Security Act*. The new provision establishes a new Medicare Part B premium subsidy reduction for higher-income beneficiaries, effective January 1, 2007. The subsidy reduction will result in an increase in the Medicare Part B premium for affected beneficiaries. The amount of additional premium above the standard monthly premium is known as the “income-related monthly adjustment amount.”

The responsibility for determining the amount of Medicare Part B monthly premiums and the amount for each level in the sliding scale of monthly income-related adjustment lies with the Centers for Medicare & Medicaid Services in the Department of Health and Human Services (HHS). The Social Security Administration (SSA) is responsible for: 1) using Federal tax return information from the Internal Revenue Service (IRS) to make determinations about which Medicare Part B beneficiaries are subject to the monthly income-related adjustment amount; 2) determining the level of adjustment the beneficiary should be subject to and when it is effective; 3) accepting information from beneficiaries which updates or clarifies the tax data provided by IRS; 4) making new initial determinations based on certain life-changing events, and 5) processing reconsiderations (first-level appeals). The proposed regulations establish rules for these situations. This clearance package discusses the sections of the proposed regulations with public reporting burdens.

SSA’s authority to collect the information requested by the proposed regulation sections is derived from section 1839(i) of the *Social Security Act*.

2. How, By Whom, and For What Purpose the Information Will Be Used

SSA will make determinations about the level of the income-related monthly adjustment amounts beneficiaries must pay based on tax and filing status data obtained from the IRS. However, SSA will use information collected from the public to make new initial determinations or to update a determination. Below is a description of the specific proposed regulation sections with public reporting

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requirements.

Part A: Sections that provide general information about new initial determinations

§418.1135(c)-(e), §418.1310(a) – These sections establish rules about when we will use information provided by beneficiaries about their modified adjusted gross income (MAGI) instead of information provided by IRS. Specifically, the four situations when we will use information provided by beneficiaries are:

- 1) When we use data from IRS that is 3 years old, beneficiaries may furnish copies of their 2-year-old tax return;
- 2) Beneficiaries may provide a copy of their amended Federal income tax returns for the same year as the IRS information that we used;
- 3) Beneficiaries may provide more recent tax year information when they have experienced a qualifying major life-changing event (marriage, divorce, spouse's death, full or partial reduction in work hours, reduction or loss of certain forms of pension income and loss of income due to property destruction); and
- 4) Beneficiaries may provide proof of a correction of IRS information that we used.

§418.1140 (b)-(d) – These sections explain that we will verify beneficiary reports about MAGI by comparing information with IRS, and that we will make retroactive premium adjustments when beneficiary information differs from IRS information.

§418.1245 – This section explains how we will evaluate updated information provided by a beneficiary, and provides the effective dates of retroactive premium corrections.

NOTE: Please note that Part A of the chart (see question #12) contains these sections, which briefly mention all of the situations which result in SSA conducting a new initial determination, and that is why they are grouped together. However, the burden numbers provided in the chart for Part A only account for the first situation cited above, when beneficiaries provide 2-year-old tax returns. Each of the remaining three situations is discussed below and has its own burdens. Situation 2 (beneficiaries provide a copy of their amended Federal income tax returns for the same year as the IRS information that we used) is discussed in Part C of the chart; situation 3 (new initial determination due to life-changing events) is discussed in Part D of the chart; and situation 4 (beneficiaries may provide proof of a correction of IRS information that we used) is discussed in Part H of the chart.

Part B: Section regarding attestation of spouses living separately

§418.1140(e) – This section states that spouses who have been living in separate homes for the past year must provide written certification, or attestation, that they have been living separately. NOTE: As per OMB’s instructions, we are not reporting burden for this section, since certifications are generally not covered by the PRA as per 5 CFR 1320.3(h)(1). We are just reporting this for informational purposes.

Part C: Sections related to requests for new initial determinations based on beneficiary requests that SSA use information from their amended Federal income tax return

§418.1150 – This section provides the time frames for beneficiaries to request that we use their copy of a filed amended Federal income tax return and a letter of receipt from IRS, which is the proof we require for such a situation.

§418.1310(a)(2) – This section explains that beneficiaries may ask SSA to use a copy of their filed amended Federal income tax return.

Part D: Sections related to requests for new initial determinations based on beneficiary reports that a major life-changing event has significantly reduced their MAGI

§418.1005(c) – This section states that SSA may change income-related monthly adjustment amount determinations using information a beneficiary provides under certain circumstances.

§418.1201 – This section explains that when beneficiaries experience a major life-changing event which causes a significant reduction in their MAGI, beneficiaries may furnish evidence of the major life-changing event and request that we use tax information they provide for a more recent taxable year.

§418.1225 – This section states that beneficiaries may furnish evidence of MAGI for a more recent tax year than the tax year of the information from IRS that we used, and what type of evidence we will require.

§418.1250 – This section states that we will ask for evidence of any major life-changing event and for a description of how the event reduced the beneficiary’s MAGI.

§418.1255 – This section describes the types of evidence of a major life-changing event beneficiaries must submit.

§418.1265 – This section describes the type of evidence of MAGI reduction the beneficiary must submit.

§418.1310(a)(4) – This section gives the time frames for beneficiaries to make a request that we use information they provide about a more recent tax year’s MAGI.

NOTE: Please note that SSA has developed form SSA-44, Medicare Part B Income-Related Premium - Life-Changing Event, to collect the information described in these sections. The burden for this collection requirement is included in the OMB package for the form.

Part E: Sections related to requests for additional new initial determinations and updates of modified adjusted gross income information that a beneficiary provided for a new initial determination

§418.1235 (c)-(d) – This section states that beneficiaries may request an additional new initial determination or provide an update on information they provided earlier.

§418.1240 – This section states that beneficiaries should report changes in the MAGI information that they provided for a new initial determination. The section also gives the time frames for providing updated information.

Part F: Sections related to requests for reconsideration of an initial determination

§418.1320 – This section explains that an initial determination is binding unless a beneficiary requests a reconsideration.

§418.1325 – This section explains when a beneficiary may request a reconsideration.

§418.1330 – This section explains that we will dismiss a beneficiary’s request for reconsideration on the basis of incorrect IRS income tax information, and that a beneficiary may request a new initial determination in order to provide corrected information.

§418.1340 - explains what rules we will use for the administrative review process.

NOTE: Please note that an existing OMB form, form SSA-561 (OMB No. 0960-0622, the Request for Reconsideration), will be used to fulfill the requirements of these sections. This form has been re-cleared for use in Medicare Part B reconsideration requests.

Part G: Sections related to requests for appeal beyond reconsideration

§418.1340, §418.1350, §418.1355 – These sections explain the rules for administrative review beyond the reconsideration level. Please note that although the information for appeals beyond the initial reconsideration level will be collected by SSA using form existing OMB form 0960-0269, the actual appeals are not conducted by SSA. All further appeals and hearings are conducted by HHS, including a hearing

before an administrative law judge of the Office of Medicare Hearings and Appeals of HHS.

NOTE: Please note that the burden attributed to this section will be counted under the clearance package for the HA-501, 0960-0269, which is in the process of being recleared to include the burden for Medicare Pat B.

Part H: Sections related to requests for new initial determinations based on a beneficiary's report that the IRS provided incorrect information about a beneficiary's modified adjusted gross income

§418.1310(a)(3) – This section gives the time frames for beneficiaries to request that we use information they provide which proves that IRS information we used is incorrect.

§418.1335 – This section explains that a beneficiary may provide proof that the IRS data we used to make a determination is incorrect. The section also establishes the type of proof that we will accept in order to make a new initial determination, and the effective date of our new initial determination.

3. Use of Other Forms of Information Technology for this Information Collection

The Agency does not plan to develop electronic versions of information collection tools to collect this information under its Government Paperwork Elimination Act plan. However, when respondents come to field offices to submit information, the Agency will collect this information using its own internal electronic systems screens. These screens will be submitted to OMB for separate clearance along with the form they parallel. At this time the percentage of respondents who will choose to go to field office is unknown.

4. Describe Efforts to Identify and Eliminate Duplication

The nature of the information being collected and the manner in which it is collected preclude duplication. There is no other collection instrument we use that collects data similar to that collected here.

5. Impact on Small Business/Small Entities

This collection does not impact small businesses or other small entities.

6. Consequences of Not Conducting the Information Collection/Obstacles to Burden Reduction

If the information collection requirements of these proposed regulation sections were not fulfilled, we would have no means of carrying out the Medicare Part B provisions of the MMA. Since the information is only collected when a specific situation arises (e.g., when a beneficiary requests use of alternative information) it cannot be collected less frequently.

There are no technical or legal obstacles that prevent burden reduction.

7. Explain Any Special Circumstances Relating to This Information Collection

There are no special circumstances that would cause this information collection to be conducted in a manner inconsistent with 5 CFR 1320.5.

8. Publication of Federal Register Notices and Solicitation of Public Comment

The Federal Register Notice for the Notice of Proposed Rulemaking for this regulation was published on March 3, 2006 at 71 FR 10926. We received comments from three organizations and four individuals. One commenter expressed concerns about the burden of documenting life-changing events. In the preamble to the final rule, we will state that we will assist beneficiaries in obtaining documentation necessary to prove that they have had a life-changing event. The statute requires that when a beneficiary requests that we use his income information about a more recent tax year, the reduction in modified adjusted gross income must be caused by a life-changing event. SSA must verify that such an event has occurred.

None of the other comments were about the public burden of information collection related to this regulation, and we have addressed all public comments in the preamble to the final regulation. There have been no outside consultations with members of the public.

The Federal Register Notice for the Final Rules for this regulation was published on October 27, 2006 at 71 FR 62923.

9. Payment or Gifts to the Respondents

We provide no payment or gifts to the respondents.

10. Describe Assurances of Confidentiality to the Respondents

The information requested is protected and held confidential 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 Questions of a Sensitive Nature

The information collection does not contain any questions of a sensitive nature.

12. Burden Estimates for the Information Collection

The following chart summarizes the burden hours we estimate will be associated with each category of sections for this Regulation.

Section	Annual Number Of Respondents	Frequency Of Response	Average Burden Per Response (Minutes)	Estimated Annual Burden (hours)
Part A §418.1135(c)-(e), §418.1140 (b)-(d), §418.1245 §418.1310(a)	9,820	1	30	4,910*
Part B §418.1140(e)	-	-	-	-
Part C §418.1150 §418.1310(a)(2)	300	1	30	150
Part D §418.1005(c) §418.1201 §418.1225 §418.1250 §418.1255 §418.1265 §418.1310(a)(4)	1	1	1	1**
Part E §418.1235 (c)-(d) §418.1240	42,260	1	30	21,130
Part F §418.1320 §418.1325 §418.1330 §418.1340	1	1	1	1**
Part G §418.1340 §418.1350 §418.1355	1	1	1	1**
Part H §418.1310(a)(3) §418.1335	200	1	30	100
Total	52,583	-	-	26,293

**NOTE: These burden numbers only reflect the first of the four situations resulting in new initial determinations. The other three are discussed in Parts C, D, and H, respectively. See question #2 for details.*

***Placeholder Burdens (see question #2 for details)*

The total burden is reflected as burden hours, and no separate cost burden has been calculated.

13. Cost to the Respondents

There is no known cost burden to the respondents.

14. Cost to the Federal Government

The proposed regulations themselves pose no annual cost to the Federal Government. Annual costs to the Federal Government for specific information collection tools used to obtain the information required by the regulations are reported for those individual collections.

15. Changes to the Public Reporting Burden

This is a new information collection that will increase the public reporting burden by 65,233 hours.

16. Publication of the Results of the Information Collection.

The results of the information collection will not be published.

17. Displaying the OMB Expiration Date

SSA is not requesting an exception to publishing the OMB expiration date.

18. OMB Certification Requirements

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

Statistical methods are not used for this information collection.