

**Supporting Statement for Review of the Disability Hearing Officer’s
Reconsidered Determination Before It Is Issued
20 CFR 404.913-404.918, 404.918(d), 404.1512-404.1515, 404.1589 and 416.912-
416.915, 416.989, 416.1413-416.1418, 416.1418(d)**

OMB No. 0960-0709

A. Justification

- 1. Introduction/Authoring Laws and Regulations** - Sections 205(a), 223(d)(5)(A), 1614(a)(3)(H)(i), and 1631(d)(1) of the *Social Security Act (Act)*; and 20 CFR 404.1512-404.1515 and 416.912-416.915 of the *Code of Federal Regulations*, state individuals applying or receiving Social Security disability benefits are responsible for furnishing medical evidence on the existence and severity of their impairment. Under 20 CFR 404.1589 and 416.989, the Social Security Administration (SSA) will, from time to time, conduct a continuing disability review (CDR) to determine if a disability recipient is still eligible for disability payments.

If, as a result of the CDR, SSA determines an individual is no longer disabled, SSA issues an initial determination informing the individual of the decision and appeal rights. The first level of appeal is a full evidentiary hearing before a disability hearing officer (DHO). 20 CFR 404.913-404.918 and 416.1413-416.1418 detail the disability hearing process afforded individuals when appealing a CDR decision. After this evidentiary hearing, the DHO determines whether the claimant’s CDR decision stands. If the DHO’s determination is unfavorable to the claimant, the claimant may appeal to an administrative law judge.

SSA conducts random, pre-effectuation, quality reviews of DHO determinations under 20 CFR 404.918 and 416.1418. If the quality review reverses the DHO determination to one unfavorable to the claimant, SSA sends a pre-effectuation notice to the claimant. The claimant has 10 days to submit a written statement disagreeing with the determination. Under 20 CFR 404.918(d) and 416.1418(d), SSA must consider the written statement before taking any adverse action on the claimant’s disability status. This information collection request is for the written statement the claimant submits.

- 2. Description of Collection** – In cases where SSA’s quality review reverses a DHO’s determination of a CDR to unfavorable to disability claimants, claimants have 10 days to submit a written statement to SSA explaining why they disagree with the unfavorable decision and reaffirm their continuing disability. SSA considers this statement before effecting any adverse action on claimants’ disability status. Respondents are disability claimants who disagree with an unfavorable determination

based on an SSA quality review of a DHO CDR.

3. **Use of Information Technology to Collect the Information** - The explanation disability claimants submit in response to the proposed SSA unfavorable decision to cease their disability status and thus their disability payments is usually in the form of a written statement. SSA does not require the information be recorded on a specific SSA form, and does not collect it using any automated, electronic, or other technical method. Due to the low volume of respondents, SSA currently has no plans to automate this procedure.
4. **Why We Cannot Use Duplicate Information** - Although an individual may repeat his reasons for believing he is still disabled at various steps in the CDR process, any written statement he makes in response to the proposed unfavorable decision notice should be considered one-of-a-kind and not duplicative. The nature of the information we are collecting and the manner in which we are collecting it preclude duplication. There is no other collection instrument SSA uses that collects 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** - The impact on Federal program or policy activities if SSA did not collect the information or collected it less frequently is negligible. Issuance of a final unfavorable reconsideration decision is delayed somewhat because we afford the individual a final opportunity to submit additional evidence. There are no technical or legal obstacles that prevent burden reduction.
7. **Special Circumstances** - There are no special circumstances that would cause SSA to collect this information in a manner inconsistent with *5 CFR 1320.5*.
8. **Solicitation of Public Comment and Other Consultations with the Public** - SSA published the 60-day advance Federal Register Notice on March 25, 2011, at 76 FR 16849, and received no public comments. SSA published the 30-day Federal Register Notice on May 26, 2011, at 76 FR 30749. If we receive any public comments in response to the second Notice, we will forward them to OMB. There have been no outside consultations with members of the public.
9. **Payment or Gifts to Respondents** - SSA provides no 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

422, 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** - The provisions of *20 CFR 404.916 (d) and 416.1418 (d)* apply only to DHO determinations an SSA quality reviewer has reversed to unfavorable to the claimant; and the claimant disagrees with this redetermination. We estimate SSA will review an average of 366 claims and only 8 will result in disagreements. Therefore, with an average burden per response of 1 hour, the estimated annual burden is 8 hours.
13. **Annual Cost to the Respondents** - There is no known cost burden to the respondents.
14. **Annual Cost to the Federal Government** - The costs to the Federal Government are negligible.
15. **Program Changes or Adjustments to the Information Collection Request** – There is no change in the public reporting burden.
16. **Plans for Publication Information Collection Results** - SSA will not publish the information collection.
17. **Displaying the OMB Approval Expiration Date** - SSA is not requesting an exception to display the OMB 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. Collection of Information Employing Statistical Methods

SSA does not use statistical methods for this information collection.