

NG STATEMENT

Disclosure of Medical Evidence  
1240-0054

**A. Justification**

**1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collections. Attach a copy of the appropriate section of each statute and of each regulation mandating or authorizing the collection of information.**

The Department's regulations implementing the Black Lung Benefits Act (BLBA), 30 U.S.C. 901 *et seq.*, require parties to exchange all medical information about the miner they develop in connection with a claim for benefits, including information the parties do not intend to submit as evidence in the claim. See 20 C.F.R. § 725.413. The rule helps protect a miner's health, assist unrepresented parties, and promote accurate benefit determinations.

The potential parties to a BLBA claim include the benefits claimant, the responsible coal mine operator and its insurance carrier, and the Director, Office of Workers' Compensation Programs (OWCP). Under this rule, a party or a party's agent who receives medical information about the miner must send a copy to all other parties within 30 days after receipt or, if a hearing before an administrative law judge has already been scheduled, at least 20 days before the hearing. The exchanged information is entered into the record of the claim only if a party submits it into evidence.

The Department's authority to engage in information collection is specified in BLBA sections 413(b), 422(a), and 426(a). See 30 U.S.C. § 923(b), 932(a), and 936(a).

**2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

Parties to a black lung benefits claim are required to exchange certain medical information about the miner that the party or the party's agent received by sending a complete copy of the

medical information to all other parties in the claim. The purpose of this exchange is to help protect a miner's health, assist unrepresented parties, and promote accurate benefit determinations.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

These exchanges are made in the context of a claim's litigation, and the allowable transmission methods will be dictated by the procedures established by the particular forum adjudicating the claim (either an OWCP district director or an administrative law judge in the Department's Office of Administrative Law Judges). In some circumstances, the forum may allow exchange by electronic methods, such as facsimile or e-mail. But the Department anticipates that parties will usually exchange these documents by U.S. postal mail or a commercial delivery service (e.g., Federal Express, UPS), and has calculated the associated burdens accordingly.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

There is no similar information available.

**5. If the collection information impacts small businesses or other small entities, describe any methods used to minimize burden.**

The Department does not believe this rule has a significant economic impact on a substantial number of small entities because in many (and perhaps the majority) of the cases, the parties already exchange all of the medical information in their possession as part of their evidentiary submissions.

**6. Describe the consequence of Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

If the collection were not conducted or conducted less frequently, there would be a direct negative impact on the parties to BLBA claims because the miner may not have full access to information about his or her health and benefit determinations may be less accurate.

**7. Explain any special circumstances required in the conduct of this information collection.**

There are no special circumstances for the collection of this information.

**8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8 (d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments.**

A Federal Register Notification inviting public comment was published on March 22, 2019 (84FR10840). No comments were received.

**9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

No payments or gifts are provided to respondents.

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulations, or agency policy.**

Since the medical documents are maintained in the beneficiary's case file, the information collected is covered by the Privacy Act System of Records Notices DOL/OWCP-2 (Office of Workers' Compensation, Black Lung Benefits Claim File) and DOL/OWCP-9 (Office of Workers' Compensation Programs, Black Lung Automated Support Package), published at 81 Federal Register 25765, 25858 and 25866 (April 29, 2016), or as updated and republished.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary; the**

**specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

This collection contains no questions of a sensitive nature.

**12. Provide estimates of the hour burden of the collection of information. The statement should:**

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not make special surveys to obtain information on which to base burden estimates. Consultation with a sample of potential respondents is desirable. If the burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated burden and explain the reason for the variance. Generally, estimates should not include burden hours for customary and usual business practices. Provide estimates of the hour burden of the collection of information.**

As noted above (see response to no. 5), the Department does not believe this information collection has a large impact on the parties to black lung benefits claims.

The Department based this estimate on the following factors: (1) the number of black lung cases adjudicated by OWCP and the Office of Administrative Law Judges in Fiscal Year 2018, which totaled 7,465 claims; and (2) the assumption that in each claim, one party had to disclose three pages of medical information to two other parties (i.e. the claimant, the coal mine operator/insurance carrier, or the Director, OWCP). The Department chose the three-page measure because many supplemental medical opinions or interpretations of test results (such as an X-ray reading) fall within this limit. The hour burden estimate of this information collection is approximately 1,244 hours. This burden is based on 7,465 claims, where each claim requires the respondent to photocopy and mail 3-pages of medical evidence to two other parties. Respondent will spend an estimate of 10 minutes to identify the medical evidence, photocopy the documents, address envelopes, affix postage, and mail the documents to two other parties.

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7,465 responses X 10 minutes = 74,650 minutes or 1,244 (1,244.17 rounded down to 1,244) hours.

The estimated annualized value of the burden hours to respondents to take this action is \$29,072 (1,244 hours X \$23.37 per hour). This hourly wage is the median identified in the Occupational Earnings Tables: United States, May 2017, <http://www.bls.gov/oes/current/oes436012.htm>, published by the Bureau of Labor Statistics, under the heading of Occupational Employment and Wages, Legal Secretaries.

1,244 hours X \$23.37 per hour = \$29,072.28

**13. Annual Costs to Respondents (capital/start-up & operation and maintenance).**

This information collection would not require the use of systems or technology for exchanging data beyond those respondents already use in customary business practice. Thus, operational costs are limited to photocopying and mailing. The estimated annual operational cost to respondents is approximately \$13,138.40, which is based on 7,465 claims, where each claim requires the respondent to photocopy and mail 3-pages of medical evidence (\$4,479 + \$8,659.40).

The cost to respondents to photocopy the medical documents is estimated at \$4,479, which is based on 3 documents photocopied for two parties of the claim.

6 pages X \$.10 a page = \$.60  
\$.60 X 7,465 = \$4,479

The cost to respondents to mail the medical documents is estimated at \$1.16 per mailing (55¢ stamp plus 3¢ for the envelope) to two parties of the claim, for a total respondent cost of \$8,659.40 (\$1.16 x 7,465).

7,465 X \$1.16 = \$8,659.40

**14. Provide estimates of annualized cost to the Federal government.**

There are no annualized costs to the Federal government. The Department usually submits any medical information it develops about a miner as evidence in the claim record. Thus, the

Department generally has no additional medical information that it would be required to exchange under the rule.

**15. Explain the reasons for any program changes or adjustments.**

The estimated number of black lung cases adjudicated by OWCP and the Office of Administrative Law Judges has increased by 3,391 to 7,465. The respondents estimated annualized value of the burden hours has increased due to the number of adjudicated cases and also due to wage increase. Annual costs to respondents (Item 13) increased because of increases in postage rates.

**16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection information, completion of report, publication dates, and other actions.**

There are no plans to publish this collection of information.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

The Department associates no forms with this information collection.

**18. Explain each exception to the certification statement identified in ROCIS.**

There are no exceptions to the certification statement.

**B. Collections of Information Employing Statistical Methods**

Statistical methods are not used in these collections of information.