

SUPPORTING STATEMENT FOR DISCLOSURE OF MEDICAL EVIDENCE

OMB CONTROL NO. 1240-0054

This ICR seeks a three year extension of expiration date.

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and 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 to adopt 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, e-mail or through the COAL Mine Portal at https://eclaimant.dol.gov/portal/?program_name=BL. 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. The form may also electronically

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 A.2 above.

There is no similar information available.

5. If the collection of 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 to 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 that would cause an information collection to be conducted in a manner:

- * **requiring respondents to report information to the agency more often than quarterly;**
- * **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**

- * **requiring respondents to submit more than an original and two copies of any document;**
- * **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**
- * **in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- * **requiring the use of statistical data classification that has not been reviewed and approved by OMB;**
- * **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- * **requiring respondents to submit proprietary, trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

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. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years -- even if the collection-of-information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

A Federal Register Notification inviting public comment was published on 02/03/2022 (87 FR 6203). The agency received no public comments in response to this notice.

9. Explain any decision to provide any payments or gifts 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, regulation, 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 conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.¹**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form.**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information**

¹ Indicate the retention period for any recordkeeping requirements that pertain to the ICR.

collection activities should not be included here. Instead, this cost should be included in Item 13.

Estimated Annualized Respondent Cost and Hour Burden

Activity	No. of Respondents	No. of Responses per Respondent	Total Responses	Average Burden (Hours)	Total Burden (Hours)	Hourly Wage Rate	Monetized Value of Respondent Time
Claims	6,105	1	6,105	0.166666667 (10 minutes)	1,018 (rounded)	\$23.55	\$23,973.90

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 2021, which totaled 6,105 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 1,018 hours. This burden is based on 6,105 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.

6,105 responses 0.166666667 ((rounded up 1,018) hours.

The estimated annualized burden hours to respondents to take this action is \$23,973.90 (1,018 hours x \$23.55 per hour). This hourly wage is the median identified in the Occupational Earnings Tables: United States, May 2020, <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.

$$1,018 \text{ hours} \times \$23.55 \text{ per hour} = \$23,973.90$$

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

- **The cost estimate should be split into two components: (a) a total capital and start up cost component (annualized over its expected useful life); and (b) a total operation, maintenance and purchase of service component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**
- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
- **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government or (4) as part of customary and usual business or private practices.**

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 \$10,745.00 (rounded up), which is based on 6,105 claims, where each claim requires the respondent to photocopy and mail 3-pages of medical evidence (\$3,663 + \$7,081.80).

The cost to respondents to photocopy the medical documents is estimated at \$3,663, which is based on 3 documents photocopied for two parties of the claim.

6 pages x \$.10 a page = \$.60
\$.60 x 6,105 = \$3,663

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 \$7,081.80 (\$1.16 x 6,105).

Description	Cost
Photocopy	\$3,663.00
Mail	\$7,081.80
Total	\$10,745

14. Provide estimates of the annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 into a single table.

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 decreased from 7,465 to 6,105. The respondents estimated annualized burden hours have also decreased due to the number of adjudicated cases. Annual costs to respondents (Item 13) decreased because of decreases in respondents as well.

16. For collections of information whose results will be published, outline plans for tabulations, 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 of 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.

Disclosure of Medical Evidence
| OMB Control Number: 1240-0054
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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.