

**Supporting Statement for Changes to the Administrative Rules for Expansion of the Rental
Subsidy Policy for Supplemental Security Income (SSI) Applicants and Recipients
20 CFR 416.1100, 416.1101, 416.1102, and 416.1130
OMB No. 0960-NEW**

A. Justification

1. Introduction/Authoring Laws and Regulations

We administer the SSI program, which provides monthly payments to: (1) adults and children with a disability or blindness; and (2) adults aged 65 or older. Eligible individuals must meet all the requirements in the Social Security Act (Act), including having resources and income below specified amounts. Since SSI is a needs-based program for those with limited income and resources, SSA must consider the amount of income an applicant or recipient has when determining whether that person is eligible to receive SSI payments. If the individual is eligible, their income is also a factor when SSA calculates the amount of their monthly SSI payments.

Specifically, once SSA determines an individual is eligible for SSI, SSA determines the individual's monthly payment amount under section 20 *CFR* 416.1101 of the *Code of Federal Regulations (CFR)* by subtracting the individual's countable monthly income from the Federal benefit rate (FBR), which is the monthly maximum Federal SSI payment. As per section 20 *CFR* 416.1100, generally, the more income an individual has, the less their SSI payment will be. For the purposes of SSI, SSA defines "income" in section 20 *CFR* 416.1102 as anything that an individual receives in cash or in-kind that the individual can use to meet their needs for food and shelter. The *Social Security Act* under 42 *USC* 1382a, and our regulations in sections 20 *CFR* 416.1102 - 416.1104, define income as "earned," such as wages from work, and "unearned," such as gifted cash. We refer to this "unearned" income as in-kind support.

Generally, we value in-kind items at their current market value and apply the various exclusions for both earned and unearned income; however, we have special rules under section 20 *CFR* 416.1130 for valuing food or shelter that is received as unearned income (in-kind support and maintenance). Under section 20 *CFR* 416.1130, we have two rules for valuing the in-kind support and maintenance (ISM) that we must count: (1) currently, the one-third reduction rule (VTR) applies if the individual is living in the household of a person, throughout a month, who provides the individual with both food and shelter, and (2) the presumed maximum value rule (PMV) applies in all other situations in which the individual is receiving countable ISM.

Our current regulations clarifies that that an individual is not receiving ISM in the form of room or rent if they are paying the required monthly rent charged under a "business arrangement." Under the current regulation, a "business arrangement" exists when the amount of monthly rent required to be paid equals the current monthly rental value (CMRV)—that is, the price of the rent on the open market in the individual's locality. Therefore, when we develop possible rental subsidy, we first determine whether the required monthly rent is equal to the CMRV, which we do by contacting the landlord, or

another knowledgeable source (e.g., a real estate firm or rental management agency). With this information in hand, we then compare the rent the individual is paying to the CMRV and document the reason for any reduced monthly rent. If the required monthly rent is less than the CMRV, we count the difference between the required monthly rent and the CMRV as ISM to the SSI applicant or recipient. We use the PMV rule to value this type of ISM.

Following court cases that challenged how we applied ISM rules for rental subsidy, we provided an exception under *20 CFR 416.1130* for residents living in specific jurisdictions within seven excepted States (Connecticut, New York, Vermont, Illinois, Indiana, Wisconsin, and Texas), where a “business arrangement” exists when the required monthly rent the SSI recipient is required to pay equals or exceeds the PMV. In these States, if the required amount of rent is less than the PMV, then the value of the rental subsidy is the difference between the required monthly rent and the PMV or the CMRV, whichever is less. This means there may be a lower threshold for what qualifies as a “business arrangement” for applicants and recipients in these excepted States because, in many cases, the PMV is lower than the CMRV. Application of this exception tends to reduce the amount of ISM counted towards an individual’s SSI payment, which generally results in a higher SSI payment amount.

SSA published the Notice of Proposed Rule Making for the Expansion of the Rental Subsidy Policy for Supplemental Security Income (SSI) Applicants and Recipients which revise our regulations by applying nationwide the ISM rental subsidy exception that is currently in place for SSI applicants and recipients residing in these seven States. The exception recognizes that a “business arrangement” exists when the amount of required monthly rent for a property equals or exceeds the presumed maximum value. This proposed rule would improve nationwide program uniformity, and we expect, improve equality in the application of the rental subsidy policy.

Applying nationally the definition of “business arrangement” based on the PMV rather than the CMRV, and thus focusing on the SSI recipient’s purchasing power or the actual economic benefit they receive, would also ensure that all SSI applicants and recipients, regardless of where they reside, would have the same policy applied to them regarding the definition of a business arrangement. This uniform definition of business arrangement means that no recipient’s SSI payment amount would be lower simply because they reside in a State where the exception policy described above does not currently apply.

While the proposed rule will not require any revisions to our existing information collections, the application of the revisions to these rules may cause a burden change to our currently approved information collections under the following information collection requests: 0960-0174, the SSA-8006, Statement of Living Arrangements, In-Kind Support and Maintenance; and 0960-0454, the SSA-L5061, Letter to Landlord Requesting Rental Information. Based on our current management information data from the seven states currently implementing these changes, we anticipate these changes will allow for verbal responses from landlords in place of the current form in some situations,

thus reducing the overall burden as SSA will not require those respondents to complete the entirety of Form SSA-L5061. In addition, we note that for those who use the paper form, we will send a revised version with question #5 removed. We also anticipate a slight burden reduction to Form SSA-8006, as the respondents may not need to provide as much detail pertaining to their rental subsidy agreement due to the proposed rule. Upon OMB's approval of the final rule, we will adjust the figures associated with the current information collections for these forms to reflect the new burden.

2. Description of Collection

As mentioned above, under section 20 *CFR 416.1130* of this rule, we propose to expand nationwide the exception regarding rental subsidy which currently applies only to seven states. We expect that this requirement will ensure that all SSI applicants and recipients, regardless of where they reside, would have the same policy applied to them regarding the definition of a business arrangement. This uniform definition of business arrangement means that no recipient's SSI payment amount would be lower simply because they reside in a State where the exception policy described above does not currently apply. This proposed policy change therefore supports our goal of enhancing equality in the programs we administer for all applicants and recipients.

In addition, this proposal will also foster efficiency in our administration of the SSI program, because we no longer would have to apply different policies on the definition of a business arrangement depending on the SSI applicant or recipient's State of residence. We also expect that the proposal would improve customer service by reducing the amount of time we need to calculate SSI payment amounts in States in which the current exception does not apply. Because the exception is currently in place in some States, we already have a well-established procedure for applying the exception, and we are confident that such a change can be applied nationwide with minimal operational or systems impact.

Under the Notice of Proposed Rule Making for the Expansion of the Rental Subsidy Policy for Supplemental Security Income (SSI) Applicants and Recipients, we anticipate that our technicians will send out fewer living arrangement development forms (OMB Control No. 0960-0174, the SSA-8006, Statement of Living Arrangements, In-Kind Support and Maintenance; and 0960-0454, the SSA-L5061, Letter to Landlord Requesting Rental Information. Based on our current management information data from the seven states currently implementing these changes, we anticipate these changes will allow for verbal responses from landlords in place of the current form in some situations, thus reducing the overall burden as SSA will not require those respondents to complete the entirety of Form SSA-L51061. In addition, we note that for those who use the paper form, we will send a revised version with question #5 removed. We also anticipate a slight burden reduction to Form SSA-8006, as the respondents may not need to provide as much detail pertaining to their rental subsidy agreement due to the proposed rule. We anticipate this will result in a reduction in the overall burden for these information collections.

Respondents are applicants for, or recipients of, Social Security disability benefits (SSDI); SSI payments; or their representatives.

3. Use of Information Technology to Collect the Information

SSA collects the information for the rental subsidy through a personal interview during which an SSA technician enters the information directly into our SSI Claims System using that modality for the information collections mentioned above. We discuss this, as well as the agency's expected efforts to create electronic means for the public to submit this information, in more detail under the specific OMB documentation for each of these information collections.

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 significantly affect small businesses or other small entities.

6. Consequence of Not Collecting Information or Collecting it Less Frequently

If SSA did not collect the information on the SSA-8006 (OMB No. 0960-0174) there would be a high risk of incorrect SSI eligibility and payment determinations. SSA collects the information on an as needed basis to determine the correct SSI payments. Collecting the information less frequently would increase the risk of making incorrect payments. In addition, if we did not use Form SSA-L5061, SSA would have no means to collect information needed to make accurate determinations of eligibility and benefit amounts as required by statute. Because we collect this information on an as needed basis, we cannot collect it less frequently. There are no technical or legal obstacles to 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

SSA published a notice of proposed rulemaking (NPRM) in the Federal Register on August 24, 2023, at 88 FR 57910. If we receive any public comments pertaining to our time estimate or the collection of this information, we will share them with OMB.

9. Payment or Gifts to Respondents

SSA does not provide payments 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

These information collections do not contain any questions of a sensitive nature.

12. Estimates of Public Reporting Burden

The charts below show the updated burden information we expect for the public reporting requirements due to the proposed rule:

| OMB #; Form #; CFR Citations | Number of Respondents | Frequency of Response | Current Average Burden Per Response (minutes) | Current Estimate d Total Burden (hours) | Anticipated New Burden Per Response Under Regulation (minutes) | Anticipated Estimated Total Burden Under Regulation (hours) | Estimated Burden Savings (hours) |
|--|----------------------------------|--------------------------------------|--|--|---|--|---|
| 0960-0174 SSA-8006 (Paper Form) | 12,160 | 1 | 7 | 1,419 | 6 | 1,216 | 203 |
| 0960-0174 SSA-8006 (SSI Claims System) | 109,436 | 1 | 7 | 12,768 | 6 | 10,944 | 1,824 |
| 0960-0454 SSA-L5061 (Paper Form) | 35,640 | 1 | 10 | 5,940 | 8 | 4,752 | 1,188 |
| 0960-0454 SSA-L5061 (Phone Call) | 35,640 | 1 | 10 | 5,940 | 3 | 1,782 | 4,158 |
| Totals | 192,876 | | | 26,067 | | 18,694 | 7,373 |

The following chart shows the theoretical cost burdens associated with the proposed rule:

| OMB #; Form # | Number of Respondents | Anticipated Estimated Total Burden Under Regulation from Chart Above (hours) | Average Theoretical Hourly Cost Amount (dollars)* | Average Combined Wait Time in Field Office and/or Teleservice Centers (minutes)** | Total Annual Opportunity Cost (dollars)*** |
|------------------------------|----------------------------------|---|--|--|---|
| 0960-0174 SSA-8006 (Paper | 12,160 | 1,216 | \$12.81* | 19** | \$77,885*** |

| | | | | | |
|--|----------------|---------------|----------|------|-----------------------|
| Form) | | | | | |
| 0960-0174 SSA-8006 (SSI Claims System) | 109,436 | 10,944 | \$12.81* | 24** | \$443,931*** |
| 0960-0454 SSA-L5061 (Paper Form) | 35,640 | 4,752 | \$29.76* | 24** | \$565,678*** |
| 0960-0454 SSA-L5061 (Phone Call) | 35,640 | 1,782 | \$29.76* | | \$53,032*** |
| Totals | 192,876 | 18,694 | | | \$1,140,526*** |

* We based this figure on the average DI payments based on SSA's current FY 2023 data (<https://www.ssa.gov/legislation/2023factsheet.pdf>); on the average U.S. citizen's hourly salary, as reported by Bureau of Labor Statistics data (https://www.bls.gov/oes/current/oes_nat.htm).

** We based this figure on the average FY 2023 wait times for field offices and hearings office, as well as by averaging both the average FY 2023 wait times for field offices and teleservice centers, based on SSA's current management information data.

*** 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, as well as anticipated changes due to the proposed rule. Per our management information data, we believe that the burdens per response for each form shown on the chart above accurately show the average burden per response for learning about the program; receiving notices as needed; reading and understanding instructions; gathering the data and documents needed; answering the questions and completing the information collection instrument; scheduling any necessary appointment or required phone call; consulting with any third parties (as needed); and waiting to speak with SSA employees (as needed). Based on our current management information data, the current burden information we provided is accurate. The total burden for this ICR is **19,882** burden hours (reflecting SSA management information data), which results in an associated theoretical (not actual) opportunity cost financial burden of **\$1,140,526**. SSA does not charge respondents to complete our applications.

As noted above, upon OMB approval of the final rule, we will update the burden figures in the associated information collections under 0960-0174, and 0960-0454 to reflect these revised burdens.

13. Annual Cost to the Respondents (Other)

These collections do not impose a known cost burden on the respondents.

14. Annual Cost To Federal Government

We estimated the annual cost to the Federal government for these forms under their individual OMB numbers. We list no cost here, as we do not want to double count the cost to the government.

15. Program Changes or Adjustments to the Information Collection Request

The new proposed rule decreases the overall public reporting burden for these information collections. See question #12 for updated burden figures. As noted in #1 and #12 above, upon OMB approval of the final rule, we will update the burden figures in the associated information collections under 0960-0174, and 0960-0454 to reflect these revised burdens.

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.