

NATIONAL ORGANIZATION OF
SOCIAL SECURITY CLAIMANTS' REPRESENTATIVES
(NOSSCR)

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Executive Director
Barbara Silverstone

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Nancy Berryhill
Acting Commissioner
Social Security Administration
6401 Security Boulevard
Baltimore, MD 21235-6401

Submitted on www.regulations.gov

Re: Information Collection Request—BBA 826, MyWageReport, 82 Fed. Reg. 22173 (May 12, 2017), Docket No. SSA-2017-0024

Dear Acting Commissioner Berryhill:

These comments are submitted on behalf of the National Organization of Social Security Claimants' Representatives (NOSSCR). NOSSCR is a specialized bar association for attorneys and advocates who represent Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) claimants throughout the adjudication process. Since 1979, NOSSCR has been providing continuing legal education to its thousands of members, and public policy advocacy on behalf of its members and the people with disabilities they represent. NOSSCR's mission is to advocate for improvements in Social Security disability programs and to ensure that individuals with disabilities applying for SSDI and SSI benefits have access to highly qualified representation and receive fair decisions.

Thank you for the opportunity to comment on the proposed information collection. NOSSCR looks forward to the implementation of the myWageReport system so that SSDI beneficiaries can report earnings electronically. This should simplify the lives of SSDI beneficiaries and increase payment accuracy. NOSSCR has four comments about the proposed wage reporting system:

1. The myWageReport system should allow for the reporting of self-employment income.

The proposed myWageReport system requires SSDI beneficiaries to contact their local Social Security offices if they wish to report self-employment income, because self-employment earnings reports “cannot be completed online at this time.” However, Section 826 of the Bipartisan Budget Act of 2015 (P.L. 114-74) states:

Not later than September 30, 2017, the Commissioner of Social Security shall establish and implement a system that [allows SSDI beneficiaries] to report to the Commissioner the individual's earnings derived from services through electronic means

There is no indication that Congress intended Section 826 to cover wages but not self-employment income. Section 223 of the Social Security Act distinguishes self-employment income and wages for several purposes, but when discussing “earnings derived from services” the statute appears to consider the term to include both self-employment income as well as wages paid by an outside employer. Therefore, the myWageReport system should allow for electronic reporting of self-employment income by September 30, 2017.

2. SSDI beneficiaries should be able to report their earnings via a telephone call.

The proposed myWageReport system appears to be accessible only via a computer or similarly Internet-connected device. It does not indicate an option that individuals could use by making a telephone call. This does not satisfy the requirements of Section 826 of the Bipartisan Budget Act, which states:

Not later than September 30, 2017, the Commissioner of Social Security shall establish and implement a system that [allows SSDI beneficiaries to report earnings] through electronic means, including by telephone and Internet; and automatically issues a receipt to the individual (or representative) after receiving each such report. The Commissioner shall model the system established...on the electronic wage reporting systems for recipients of supplemental security income under title XVI of such Act. (emphasis added; internal headings and numbering omitted)

Congress specifically stated that Internet reporting is not sufficient; reports by telephone must also be accepted. The fact that SSDI beneficiaries can use Internet-enabled mobile phones to make reports through myWageReport does not satisfy the requirements of the Bipartisan Budget Act. Beneficiaries should be able to use the telephone function—not just the Internet function—of their mobile phones, as well as non-Internet-enabled telephones, to make wage reports. This functionality is important for SSDI beneficiaries who lack Internet access, have difficulty reading or typing, or simply prefer to make a phone call instead of completing an Internet form. Telephone reporting is available for SSI earnings reports via the Supplemental Security Income Telephone Wage Reporting system (SSITWR).¹ Congress’ instruction to the Commissioner to model the SSDI system on the systems [plural] for SSI recipients further supports the interpretation that telephone reporting is necessary.

¹ See “SSI SPOTLIGHT ON THE SSI TELEPHONE WAGE REPORTING (SSITWR) SYSTEM AND THE SSI MOBILE WAGE REPORTING (SSIMWR) APPLICATION -- 2017 Edition” at <https://www.ssa.gov/ssi/spotlights/spot-telephone-wage.htm>

3. The myWageReport system should include questions about work incentives.

SSDI beneficiaries are eligible for a variety of work incentives.² Electronic wage reporting systems should include questions about whether beneficiaries are eligible for these incentives. For example, the myWageReport system could ask whether beneficiaries perform subsidized work, with a brief description of various work subsidies and special conditions. The system could also ask about impairment-related work expenses and unincurred business expenses.

Although further development by SSA employees would likely be necessary if beneficiaries report eligibility for work incentives, inquiring about such incentives during the wage-reporting process would improve agency efficiency and payment accuracy.

4. Reports made through myWageReport by concurrent SSI and SSDI beneficiaries should suffice as wage reporting for both benefits.

Approximately 1.3 million people age 18-64 receive both SSI and Title II benefits on the basis of disability.³ When such an individual uses myWageReport to report earnings, he or she should be considered to have reported in a manner sufficient for both programs. The receipts issued should be considered as proof that a beneficiary reported the income for both SSI and SSDI, and benefits in both programs should be adjusted as necessary.

Thank you for considering these comments.

Sincerely,

Barbara Silverstone
Executive Director

² See <https://www.ssa.gov/disabilityresearch/wi/detailedinfo.htm>

³ https://www.ssa.gov/policy/docs/statcomps/di_ast/2015/sect05.html.