



## Centers for Medicare & Medicaid Services

[Document Identifier: CMS-R-185, CMS-10166, CMS-10178, CMS-10184, CMS-10417 and CMS-372(S)]

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

**ACTION:** Notice.

**SUMMARY:** The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the *Federal Register* concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**DATES:** Comments must be received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to <http://www.regulations.gov>. Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address:

CMS, Office of Strategic Operations and Regulatory Affairs

Division of Regulations Development

Attention: Document Identifier/OMB Control Number: CMS-P-0015A

Room C4-26-05

7500 Security Boulevard

Baltimore, Maryland 21244-1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web Site address at Web Site address at <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html>

**FOR FURTHER INFORMATION CONTACT:** William N. Parham at (410) 786-4669.

**SUPPLEMENTARY INFORMATION:**

*Contents*

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS-R-185	Granting and Withdrawal of Deeming Authority to Private Nonprofit Accreditation Organizations and CLIA Exemption Under State Laboratory
CMS-10166	Fee-for-Service Improper Payment Rate Measurement in Medicaid and the Children's Health Insurance Program
CMS-10178	Medicaid and Children's Health Insurance (CHIP) Managed Care Payments and Related Information
CMS-10184	Payment Error Rate Measurement – State Medicaid and CHIP Eligibility
CMS-10417	Medicare Fee-for-Service Prepayment Review of Medical Records

CMS-372(S) Annual Report on Home and Community Based Services Waivers and Supporting Regulations

Under the PRA (44 U.S.C. 3501-3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the Federal Register concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

*Information Collection*

1. *Type of Information Collection Request:* Extension of currently approved collection;  
*Title of Information Collection:* Granting and Withdrawal of Deeming Authority to Private Nonprofit Accreditation Organizations and CLIA Exemption Under State Laboratory Programs;  
*Use:* The information required is necessary to determine whether a private accreditation organization/State licensure program standards and accreditation /licensure process is at least equal to or more stringent than those of the Clinical Laboratory Improvement Amendments of 1988 (CLIA). If an accreditation organization is approved, the laboratories that it accredits are "deemed" to meet the CLIA requirements based on this accreditation. Similarly, if a State licensure program is determined to have requirements that are equal to or more stringent than those of CLIA, its laboratories are considered to be exempt from CLIA certification and requirements. The information collected will be used by HHS to: determine comparability/equivalency of the accreditation organization standards and policies or State licensure program standards and policies to those of the CLIA program; to ensure the continued comparability/equivalency of the standards; and to fulfill certain statutory reporting requirements. *Form Number:* CMS-R-185 (OMB control number: 0938-

0686); *Frequency*: Occasionally; *Affected Public*: Private Sector - Business or other for-profits and Not-for-profit institutions; *Number of Respondents*: 9; *Total Annual Responses*: 9; *Total Annual Hours*: 5,464. (For policy questions regarding this collection contact Arlene Lopez at 410-786-6782.)

2. *Type of Information Collection Request*: Reinstatement without change of a currently approved collection; *Title of Information Collection*: Fee-for-Service Improper Payment Rate Measurement in Medicaid and the Children's Health Insurance Program; *Use*: The information collected from the selected States will be used by Federal contractors to conduct Medicaid and CHIP FFS data processing and medical record reviews on which State-specific improper payment rates will be calculated. The quarterly FFS claims and payments will provide the contractor with the actual claims to be sampled. The systems manuals, provider policies, and other supporting documentation will be used by the federal contractor when conducting the FFS data processing and medical record reviews. Further, the FFS claims and payments sampled for data processing and medical record reviews will serve as the basis for the eligibility reviews. Individuals for whom the state made the FFS claim or payments will have their underlying eligibility reviewed.

In addition to the Federal Review Contractor conducting a data processing and medical record review of the FFS claims and payments, the FFS sample selected from the state-submitted universe will also be leveraged to support the PERM eligibility reviews. The Federal Eligibility Review Contractor will review the underlying eligibility of individuals whose FFS claims and payments were sampled as part of the PERM FFS sample. *Form Number*: CMS-10166 (OMB control number: 0938-0974); *Frequency*: Quarterly; *Affected Public*: State, Local, or Tribal Governments; *Number of Respondents*: 17; *Total Annual Responses*: 34; *Total Annual Hours*: 56,100. (For policy questions regarding this collection contact Daniel Weimer at 410-786-5240.)

3. *Type of Information Collection Request*: Reinstatement without change of a currently approved collection; *Title of Information Collection*: Medicaid and Children's Health Insurance (CHIP) Managed Care Payments and Related Information; *Use*: The information collected from the

selected States will be used by Federal contractors to conduct Medicaid and CHIP managed care data processing reviews on which State-specific improper payment rates will be calculated. The quarterly capitation payments will provide the contractor with the actual claims to be sampled. The managed care contracts, rate schedules, and updates to both, will be used by the federal contractor when conducting the managed care claims reviews. Further, the managed care capitation payments sampled for data processing reviews will serve as the basis for the eligibility reviews. Individuals for whom the state made the managed care capitation will have their underlying eligibility reviewed.

Section 2(b)(1) of IPERA clarified that, when meeting IPIA and IPERA requirements, agencies must produce a statistically valid estimate, or an estimate that is otherwise appropriate using a methodology approved by the Director of the OMB. IPERIA further clarified requirements for agency reporting on actions to reduce improper payments and recover improper payments. The collection of information is necessary for CMS to produce national improper payment rates for Medicaid and CHIP as required by Public Law 107-300. *Form Number:* CMS-10178 (OMB control number: 0938-0994); *Frequency:* Quarterly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 17; *Total Annual Responses:* 34; *Total Annual Hours:* 19,550. (For policy questions regarding this collection contact Daniel Weimer at 410-786-5240.)

4. *Type of Information Collection Request:* Reinstatement with change of a previously approved collection; *Title of Information Collection:* Payment Error Rate Measurement - State Medicaid and CHIP Eligibility; *Use:* The Payment Error Rate Measurement (PERM) program was developed to implement the requirements of the Improper Payments Information Act (IPIA) of 2002 (Pub. L. 107-300), which requires the head of federal agencies to annually review all programs and activities that it administers to determine and identify any programs that are susceptible to significant erroneous payments. If programs are found to be susceptible to significant improper payments, then the agency must estimate the annual amount of erroneous payments, report those estimates to the Congress, and submit a report on actions the agency is taking to reduce improper payments. IPIA was amended by Improper Payments Elimination and Recovery Act of 2010 (IPERA) (Pub. L. 111-

204), the Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA) (Pub. L. 112-248), and the Payment Integrity Information Act of 2019 (PIIA) (Pub. L. 116-117).

The eligibility case documentation collected from the States, through submission of hard copy case files and through access to state eligibility systems, will be used by CMS and its federal contractors to conduct eligibility case reviews on individuals who had claims paid on their behalf in order to determine the improper payment rate associated with Medicaid and CHIP eligibility to comply with the IPIA of 2002. Prior to the July 2017 Final Rule being published in response to the Affordable Care Act, states provided CMS only with information about their sampling and review process as well as the final review findings, which CMS has used in each PERM cycle to calculate IPIA-compliant state and federal improper payment rate for Medicaid and CHIP. Given changes brought forth in the July 2017 Final Rule, states will no longer be required to develop eligibility-specific universes, conduct case reviews, and report findings to CMS. A federal contractor will utilize the claims (fee-for-service and managed care universes) to identify a sample of individuals and will be responsible for conducting case reviews to support the PERM measurement. *Form Number:* CMS-10184 (OMB control number: 0938-1012); *Frequency:* Quarterly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 17; *Total Annual Responses:* 34; *Total Annual Hours:* 25,500. (For policy questions regarding this collection contact Daniel Weimer at 410-786-5240.)

5. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicare Fee-for-Service Prepayment Review of Medical Records; *Use:* The Medical Review program is designed to prevent improper payments in the Medicare FFS program. Whenever possible, Medicare Administrative Contractors (MACs) are encouraged to automate this process; however, it may require the evaluation of medical records and related documents to determine whether Medicare claims are billed in compliance with coverage, coding, payment, and billing policies. Addressing improper payments in the Medicare fee-for-service (FFS) program and promoting compliance with Medicare coverage and coding rules is a top priority for the

CMS. Preventing Medicare improper payments requires the active involvement of every component of CMS and effective coordination with its partners including various Medicare contractors and providers. The information required under this collection is requested by Medicare contractors to determine proper payment, or if there is a suspicion of fraud. Medicare contractors request the information from providers/suppliers submitting claims for payment when data analysis indicates aberrant billing patterns or other information which may present a vulnerability to the Medicare program. *Form Number:* CMS-10417; *Frequency:* Occasionally; *Affected Public:* Private Sector, State, Business, and Not-for Profits; *Number of Respondents:* 485,632; *Number of Responses:* 485,632; *Total Annual Hours:* 242,816. (For questions regarding this collection, contact Christine Grose at (410-786-1362).

6. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Annual Report on Home and Community Based Services Waivers and Supporting Regulations; *Use:* We use this report to compare actual data to the approved waiver estimates. In conjunction with the waiver compliance review reports, the information provided will be compared to that in the Medicaid Statistical Information System (MSIS) (CMS-R-284; OMB control number: 0938-0345) report and FFP claimed on a state's Quarterly Expenditure Report (CMS-64; OMB control number: 0938-1265), to determine whether to continue the state's home and community-based services waiver. States' estimates of cost and utilization for renewal purposes are based upon the data compiled in the CMS-372(S) reports. *Form Number:* CMS-372(S) (OMB control number: 0938-0272); *Frequency:* Yearly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 48; *Total Annual Responses:* 253; *Total Annual Hours:* 11,132. (For policy questions regarding this collection contact Ralph Lollar at 410-786-0777.)

Dated: May 13, 2021.

**William N. Parham, III,**

*Director,*

*Paperwork Reduction Staff,*

*Office of Strategic Operations and Regulatory Affairs.*

**4120-01-U-P**

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