



Centers for Medicare & Medicaid Services

[Document Identifier: CMS-10573 and CMS-10106]

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: _____

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-](https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing)

[Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing](https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing)

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-10573 Reform of Requirements for Long-Term Care Facilities

CMS-10106 Medicare Authorization to Disclose Personal Health Information

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:* Revision of a currently approved collection;
Title of Information Collection: Reform of Requirements for Long-Term Care Facilities; *Use:* According to our data, as of April 2, 2021, there were 15,372 LTC facilities in the United States. These facilities are currently caring for 1,290,290 residents. Since the number of LTC facilities and residents varies yearly, for the purposes of this analysis, we utilized estimates of 15,600 for LTC facilities and 1.3 million residents. LTC facilities include skilled nursing facilities (SNFs) as defined in section 1819(a) of the Social Security Act in the Medicare program and nursing facilities (NFs) as defined in 1919(a) of the Act in the Medicaid program. SNFs and NFs provide skilled nursing care and related services for residents who require medical or nursing care, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons. In addition, NFs provide health-related care and services to individuals who because of their mental or physical condition require care and services (above the level of room and board) which can be made available to them only through institutional facilities, and is not primarily for the care and treatment of mental diseases. SNFs and NFs must care for their residents in such a manner and in such an environment as will promote maintenance or enhancement of the quality of life of each resident and must provide to residents services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, in accordance with a written plan of care, which describes the medical, nursing, and psychosocial needs of the resident and how such needs will be met and is updated periodically.

Under the authority of sections 1819 and 1919 of the Act, the Secretary proposed to reform the requirements that SNFs and NFs must meet to participate in the Medicare & Medicaid programs. These requirements would be set forth in 42 CFR 483 subpart B as Requirements for

LTC Care Facilities. The requirements apply to an LTC facility as an entity as well as the services furnished to each individual under the care of the LTC facility, unless a requirement is specifically limited to Medicare or to Medicaid beneficiaries. To implement these requirements, State survey agencies generally conduct surveys of LTC facilities to determine whether or not they are complying with the requirements.

Ordinarily, we would be required to estimate the public reporting burden for information collection requirements (ICRs) for these regulations in accordance with chapter 35 of title 44, United States Code. However, sections 4204(b) and 4214(d) of Omnibus Budget Reconciliation Act of 1987, Pub. L. 100-203 (OBRA '87) provide for a waiver of Paperwork Reduction Act (PRA) requirements for some regulations. At the time that the 2016 LTC final rule (81 FR 68688) published, we believed that this waiver still applied to those updates we made to existing requirements in part 483 subpart B that were set forth by OBRA 87. However, we acknowledged that the 2016 final rule also extensively revised many of the existing requirements in part 483 subpart B and recognized that the revisions likely created new burdens for facilities. In addition, we noted that the 2016 final rule implemented several new requirements set forth by the Affordable Care Act, which were not included in the PRA waiver. Therefore, we provided burden estimates for the new ICRs finalized in the 2016 LTC final rule set forth by the Affordable Care Act, as well as those revisions to existing requirements in part 483 subpart B that were so extensive they could be considered new ICRs in concept. For the current or 2022 information collection request (ICR), we have provided updates to the burden in the 2019 ICR, as well as provided burden estimates for all of the new ICs finalized since 2016 that were in effect as of May 2021. The ICRs and the rules they were finalized in are indicated in table below.

Rule Name and Publication Date	FR Citation	ICRs
Medicare and Medicaid Programs; Reform of Requirements for Long-Term Care Facilities; Final rule (CMS-3260-F) Published October 4, 2016	81 FR 68688	All ICRs, except as noted below.
Medicare and Medicaid Programs, Clinical Laboratory Improvement Amendments (CLIA), and Patient Protection and Affordable Care Act; Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency; IFC (CMS-3401-IFC) Published September 2, 2020	85 FR 54820	Section 483.80(h) – COVID-19 Testing
Medicare and Medicaid Programs; COVID-19 Vaccine Requirements for Long Term Care (LTC) Facilities and Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs-IID) Residents, Clients, and Staff); IFC (CMS-3414-IFC) (May 2021 Vaccination IFC) Published May 13, 2021	86 FR 26306	Sections 483.80(d)(3) – COVID-19 immunizations and (g)(1)(viii) – (x)
Medicare and Medicaid Programs: CY 2022 Home Health Prospective Payment System Rate Update; Home Health Value-Based Purchasing Model Requirements and Model Expansion; Home Health and Other Quality Reporting Program Requirements; Home Infusion Therapy Services Requirements; Survey and Enforcement Requirements for Hospice Programs; Medicare Provider Enrollment Requirements; and COVID-19 Reporting Requirements for Long-Term Care Facilities (86 FR 62240) (CMS -1747—F and CMS-5531-F). Published November 9, 2021	86 FR 62240	Section 483.80(g)

The primary users of this information will be State agency surveyors, CMS, and the LTC facilities for the purposes of ensuring compliance with Medicare and Medicaid requirements as well as ensuring the quality of care provided to LTC facility residents. The ICs specified in the regulations may be used as a basis for determining whether a LTC is meeting the requirements to participate in the Medicare program. In addition, the information collected for purposes of ensuring compliance may be used to inform the data provided on CMS' Nursing Home Compare website and as such used by the public in considering nursing home selections for services.

Form Number: CMS-10573 (OMB control number: 0938-1363); *Frequency:* Occasionally;

Affected Public: Private Sector: Business or other for-profit and not-for-profit institutions;

Number of Respondents: 15,600; *Total Annual Responses:* 18,658,854; *Total Annual Hours:*

29,935,899. (For policy questions regarding this collection contact Diane Corning at 410-786-8486.)

2. *Type of Information Collection Request:* Reinstatement without change of a previously approved collection; *Title of Information Collection:* Medicare Authorization to Disclose Personal Health Information; *Use:* The “Medicare Authorization to Disclose Personal Health Information” will be used by Medicare beneficiaries to authorize Medicare to disclose their protected health information to a third party. Medicare beneficiaries can submit the Medicare Authorization to Disclose Personal Health Information electronically at Medicare.gov. Beneficiaries may also submit the Medicare Authorization to Disclose Personal Health Information by mailing a complete and valid authorization form to Medicare. Beneficiaries can submit the Medicare Authorization to Disclose Personal Health Information verbally over the phone by calling Medicare. *Form Number:* CMS-10106 (OMB control number: 0938-0930); *Frequency:* Occasionally; *Affected Public:* Individuals or households; *Number of Respondents:* 1,000,000; *Total Annual Responses:* 1,000,000; *Total Annual Hours:* 250,000. (For policy questions regarding this collection contact Sam Jenkins at 410-786-3261.)

Dated: March 9, 2022.

William N. Parham, III,

Director,

Paperwork Reduction Staff,

Office of Strategic Operations and Regulatory Affairs.