4120-01-U-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS-R-142 and CMS-10379]

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 (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, please access the CMS PRA web site by copying and pasting the following web address into your web browser: 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-R-142 Examination and Treatment for Emergency Medical Conditions and Women in Labor (EMTALA)

CMS-10379 Rate Increase Disclosure and Review Requirements (45 CFR Part 154)

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*: Reinstatement with change of a previously approved collection; *Title of Information Collection:* Examination and Treatment for Emergency Medical Conditions and Women in Labor (EMTALA); *Use:* Pursuant to section 1866(a)(1)(I) of the Act, Congress has mandated that the Secretary enforce section 1867 of the Act. Under section 1867, effective August 1, 1986, hospitals may continue to participate in the Medicare program only if they are not out of compliance with its provisions. Continued Paperwork Reduction Act (PRA) approval of the regulation sections cited below will promote uniform and thorough application of the section 1866 and 1867 requirements. They will also provide information when requested by Congress and other interested parties regarding the implementation of the statute. During 2004 through 2018, approximately 8,146 complaints were received, approximately 7,770 of those complaints were investigated, and approximately 3,567 EMTALA deficiencies were found. During Federal fiscal years 2001 through 2005 the Inspector General's Office imposed civil monetary penalties on hospitals in 105 cases, for a total of $2,645,750 in penalties. An audit completed by the Office of Inspector General (OIG) (entitled, Office of Inspector General: Implementation and Enforcement of the Examination and Treatment for Emergency Medical Conditions and Women in Labor by the Health Care Financing Administration, April 1995, A–06–93–00087) determined that CMS's implementation of the Act was generally effective, but Regional Offices (RO) were not consistent with conducting timely investigations, sending acknowledgments to complaints,

ensuring that investigations were thorough, or ensuring that violations were referred to the OIG in accordance with CMS policy for possible civil monetary penalty action. OIG further concluded that without proper compliance, there is an increased risk that individuals with emergency medical conditions will not receive the treatment needed to stabilize their condition, which may place them in greater risk of death. *Form Number:* CMS–R–142 (OMB control number: 0938–0667); *Frequency:* Occasionally; *Affected Public:* Private Sector; Business or other for-profits, Not-for-profit institutions; *Number of Respondents:* 5,166; *Total Annual Responses:* 5,166; *Total Annual Hours:* 5,166. (For policy questions regarding this collection contact Renate Dombrowski at (410) 786–4645.)

2. *Type of Information Collection Request:* Reinstatement with change of a previously approved collection; *Title of Information Collection:* Rate Increase Disclosure and Review Requirements (45 CFR Part 154); *Use:* 45 CFR part 154 implements the annual review of proposed increases in premiums for health insurance coverage called for by section 2794 of the Public Health Service Act (PHS Act). The regulation established a rate review program to ensure that all rate increases that meet or exceed an established threshold are reviewed by a state or the Centers for Medicare & Medicaid Services (CMS) to determine whether the proposed rate increases are unreasonable. Each state or CMS also reviews all proposed rate changes from issuers offering non-grandfathered health insurance coverage in the individual and/or small group markets for compliance with the Federal rating rules at sections 2701, 2705, 2717(c)(4), and 2753 of the PHS Act, section 1312(c) of the Affordable Care Act, and 45 CFR 147.102, 147.110, 148.180, and 156.80. Accordingly, issuers offering non-grandfathered health insurance coverage in the individual and/or small group markets are required to submit Rate Filing Justifications to CMS. 45 CFR 154.103 exempts grandfathered health plan coverage as defined in 45 CFR 147.140, excepted benefits as described in section 2791(c) of the PHS Act and student health insurance coverage, as defined in § 147.145, from Federal rate review requirements.

The Rate Filing Justification consists of three parts. All issuers must continue to submit a Uniform Rate Review Template (URRT) (Part I of the Rate Filing Justification) for all single risk pool plans. 45 CFR 154.200(a)(1) establishes a 15 percent Federal default threshold for reasonableness review. Issuers that submit a rate filing that includes a plan with a proposed rate increase that meets or exceeds the threshold must include a written description justifying the rate increase, also known as the consumer justification narrative (Part II of the Rate Filing Justification). We note that the threshold set by CMS constitutes a minimum standard, and most states currently employ stricter rate review standards and may continue to do so. Issuers offering a QHP or any single risk pool submission containing a rate increase of any size must continue to submit an actuarial memorandum (Part III of the Rate Filing Justification). The actuarial memorandum is required whenever a state with an Effective Rate Review Program, as determined in accordance with 45 CFR 154.301, requires it to be submitted, and for all plans in states that do not have an Effective Rate Review Program. *Form Number:* CMS-10379 (OMB control number: 0938-1141); *Frequency:* Annually; *Affected Public*: Private Sector; Businesses or other for-profits, Not-for-profit institutions, State, Local, or Tribal Governments; *Number of Respondents*: 620; *Number of Responses*: 2,551; *Total Annual Hours*: 46,102. (For policy questions regarding this collection, contact Keith McNamara at 410-786-7010.)

William N. Parham, III,

Director,

Division of Information Collections and Regulatory Impacts,

Office of Strategic Operations and Regulatory Affairs.

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