



## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[Document Identifier: CMS-R-70, CMS-R-72 and CMS-10781]

#### 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-70 Information Collection Requirements in HSQ-110, Acquisition, Protection and Disclosure of Peer review Organization Information and Supporting Regulations

CMS-R-72 Information Collection Requirements in 42 CFR 478.18, 478.34, 478.36, 478.42, QIO Reconsiderations and Appeals

CMS-10781 FOIA/Privacy Act Requests for Medicare Claims Data via CMS FOIA Public Portal

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 Collections*

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Information Collection Requirements in HSQ-110, Acquisition, Protection and Disclosure of Peer review Organization Information and Supporting Regulations; *Use:* The Peer Review Improvement Act of 1982 authorizes quality improvement organizations (QIOs), formally known as peer review organizations (PROs), to acquire information necessary to fulfill their duties and functions and places limits on disclosure of the information. The QIOs are required to provide notices to the affected parties when disclosing information about them. These requirements serve to protect the rights of the affected parties. The information provided in these notices is used by the patients, practitioners and providers to: obtain access to the data maintained and collected on them by the QIOs; add additional data or make changes to existing QIO data; and reflect in the QIO's record the reasons for the QIO's disagreeing with an individual's or provider's request for amendment.

Beneficiary and Family-Centered Care-Quality Improvement Organization (BFCC-QIO) Contracts have been signed with QIOs for their respective geographic areas (which includes all United States & Territories). The second type of QIOs and Quality Innovation Network-QIOs focus on health care quality improvement efforts.

The scope of information collection by the BFCC-QIOs includes the number of Medicare beneficiaries with expedited appeals, reconsideration appeals and Beneficiary Complaint cases

which are then reported into the CMS System of Record. Medicare beneficiaries or their appointed representatives have the right to appeal the provider's decision to discharge or end services if beneficiaries believe their Medicare Part A Medicare services (e.g. hospital discharge, skilled nursing home care, home health, etc.) are ending too soon. They also have the right to file a Beneficiary Complaint case when they have concerns about the quality of care they received. *Form Number:* CMS-R-70 (OMB control number: 0938-0426); *Frequency:* Reporting – On occasion; *Affected Public:* Business or other for-profits; *Number of Respondents:* 50,000; *Total Annual Responses:* 398,388; *Total Annual Hours:* 521,599. (For policy questions regarding this collection contact Kellie.Levaille@cms.hhs.gov).

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Information Collection Requirements in 42 CFR 478.18, 478.34, 478.36, 478.42, QIO Reconsiderations and Appeals; *Use:* The Peer Review Improvement Act of 1982 amended Title XI of the Social Security Act to create the Utilization and Quality Control Peer Review Organization (PRO) program. Under this program, a PRO is designated in each State to ensure that care provided to Medicare patients is reasonable, medically necessary, and of a quality that meets professionally recognized standards of care. A ***Federal Register*** notice dated May 24, 2002, renamed the PROs as Quality Improvement Organizations (QIOs).

Beneficiary and Family-Centered Care-Quality Improvement Organization (BFCC-QIO) Contracts have been signed with QIOs for their respective geographic areas (which includes all United States & Territories). The second type of QIOs are Quality Innovation Network-QIOs, and focus on health care quality improvement efforts.

The scope of this information collection includes that from the BFCC-QIOs for the number of Medicare beneficiary level 2 appeals. Medicare beneficiaries or their appointed representatives have the right to appeal the provider's decision to discharge or end services if beneficiaries believe that their Medicare Part A Medicare services (e.g. hospital discharge,

skilled nursing home care, home health, etc.) are ending too soon. Medicare beneficiaries have the right to file a reconsideration of a BFCC-QIO appeals review determination. *Form Number:* CMS-R-72 (OMB control number: 0938-0443); *Frequency:* Reporting – On occasion; *Affected Public:* Individuals or Households and Business or other for-profit institutions; *Number of Respondents:* 20,129; *Total Annual Responses:* 60,729; *Total Annual Hours:* 22,014. (For policy questions regarding this collection contact Kellie.Leville@cms.hhs.gov).

3. *Type of Information Collection Request:* Reinstatement without change of a previously approved collection; *Title of Information Collection:* FOIA/Privacy Act Requests for Medicare Claims Data via CMS FOIA Public Portal; *Use:* This collection of information is dedicated to Medicare beneficiaries and third-party requesters (law firms or others) acting on behalf of beneficiaries that are making requests for CMS to produce Medicare beneficiary records through 5 U.S.C. § 552(b) (See also 42 CFR § 401.136). The online portal allows for ease and efficiency in uploading requests and required authorizations. Additionally, with the portal, requesters can securely submit requests electronically that contain PHI or PII. They are advised that MyMedicare.gov / Blue Button<sup>3</sup> is an online service available for beneficiaries to set up an account to access their own records and give authorization to share with third parties. This secure public online portal is integrated with CMS's current FOIA/Privacy Act case management system to enter, track, and process incoming FOIA requests (See 45 CFR §§ 5.22 and 5.24). Unless permitted or required by law, the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule (45 CFR § 164.508) prohibits Medicare (a HIPAA-covered entity) from disclosing an individual's protected health information without valid authorization. *Form Number:* CMS-10781 (OMB control number: 0938-1419); *Frequency:* Reporting –Occasionally; *Affected Public:* Individuals or Households; *Number of Respondents:* 22,600; *Total Annual Responses:* 22,600; *Total Annual Hours:* 7,533. (For policy questions regarding this collection contact Joseph Tripline at joseph.tripline@cms.hhs.gov).

**William N. Parham, III**

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