



## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Centers for Medicare & Medicaid Services**

**[Document Identifier: CMS-10752]**

#### **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:**

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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**).

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:* Submission of 1135 Waiver Request Automated Process; *Use:* This is a revision of an information collection request approved under Office of Management and Budget (OMB) control number of 0938-1384 with an expiration date of August 31, 2026. The Acute Hospital Care at Home (AHCAH) program will no longer be included in this package.

Waivers under Section 1135 of the Social Security Act (the Act) and certain flexibilities allow the CMS to relax certain requirements, known as the Conditions of Participation (CoPs) or Conditions of Coverage to promote the health and safety of beneficiaries. Under Section 1135 of the Act, the Secretary may temporarily waive or modify certain Medicare, Medicaid, and Children's Health Insurance Program (CHIP) requirements to ensure that sufficient health care services are available to meet the needs of individuals enrolled in Social Security Act programs in the emergency area and time periods. These waivers ensure that healthcare entities/caregivers who provide such services in good faith can be reimbursed and exempted from sanctions.

During emergencies, CMS must be able to apply program waivers and flexibilities under section 1135 of the Social Security Act, in a timely manner to respond quickly to unfolding events. In a disaster or emergency, waivers and flexibilities assist health care providers/suppliers in providing timely healthcare and services to people who have been affected and enables states, Federal districts, and U.S. territories to ensure Medicare and/or Medicaid beneficiaries have continued access to care. During disasters and emergencies, it is not uncommon to evacuate patients in health care facilities to other provider settings or across state lines, especially, during hurricane, wildfire, and tornado events. CMS must collect relevant information for which a

provider is requesting a waiver or flexibility to make proper decisions about approving or denying such requests. Collection of this data aids in the prevention of gaps in access to care and services before, during, and after an emergency. CMS must also respond to inquiries related to a Public Health Emergency (PHE) from providers. CMS is not collecting information from these inquiries; we are merely responding to them.

The collection of the information surrounding 1135 Waiver requests/inquiries is based on a case-by-case basis and not regularly scheduled (e.g., quarterly, annually, by all providers/suppliers). The collection of information only occurs when the healthcare entity, impacted by an emergency, is requesting waivers/flexibilities under Section 1135 of the Act or inquiring about PHEs. The collection of information is also dependent on provider types; therefore, it is not a collection for all Medicare-participating facilities.

In 2021, we implemented a streamlined, automated process to standardize the 1135 waiver requests and inquiries submitted based on lessons learned during the COVID-19 PHE.

Furthermore, the normal operations of a healthcare provider are disrupted by emergencies or disasters occasionally. When this occurs, State Survey Agencies (SA) or Health Care Providers deliver a provider/beneficiary tracking report regarding the current status of all affected healthcare providers and their beneficiaries. This report includes demographic information about the beneficiary status, provider, their operational status, anticipated needs and planned resumption of normal operations. This information is provided whether or not a PHE has been declared.

We are enhancing this information collection to better support emergency response by capturing the emergency date, simplifying ongoing status updates for stakeholders, and providing a more comprehensive view of cybersecurity incidents through expanded reporting on patient and operational impacts. This automated process will continue to consist of a public facing web form as well as a process for SAs/Providers to submit data using extracts (CSV or Excel) on emergent events impacting Health Care Facilities via an automated mail handler

system. Both processes (public facing web form and extracts via an automated mail handler system) are known as the Health Care Facility (HCF) Operational Status. *Form Number:* CMS-10752 (OMB control number: 0938-1384); *Frequency:* Occasionally; *Affected Public:* Private Sector: Business or other for-profits and Not-for-profit institutions and State, Local or Tribal Governments; *Number of Respondents:* 4,829; *Total Annual Responses:* 4,829; *Total Annual Hours:* 4,016. (For policy questions regarding this collection, contact Adriane Saunders at 404-562-7484.)

**William N. Parham, III,**

*Director,*

*Division of Information Collections and Regulatory Impacts,*

*Office of Strategic Operations and Regulatory Affairs.*

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