



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS-10599]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Centers for Medicare & Medicaid Services.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is requesting that an information collection request revision for the *Review Choice Demonstration or Home Health Services* (CMS-10599/0938-1311) processed under the emergency clearance process associated with the implementing regulations of the Paperwork Reduction Act of 1995 (PRA). Public harm is reasonably likely to occur if normal, non-emergency clearance procedures are followed. The approval of this data collection process is essential to ensure that the Review Choice Demonstration (RCD) for Home Health (HH) Services is expanded to California within the specified timeframe. A delay in the expansion means an extended time the public will be harmed through the continuation of significant fraud found in the traditional Medicare home health benefit in California through the waste of taxpayer money, a loss of funds from the Medicare Trust Funds that could have been used for truly needed care, paying for care that is never delivered, and beneficiaries potentially receiving non-medically necessary care.

Under the PRA, federal agencies are required to publish notice in the **Federal Register** concerning each proposed ICR. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this ICR including the necessity and utility of the proposed ICR 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 14-DAYS AFTER THE DATE OF DISPLAY IN THE *FEDERAL REGISTER*]**.

ADDRESSES: When commenting, please reference the document identifier (CMS-10599) or OMB control number (0938-1311). 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: CMS-10599/OMB Control Number 0938-1311

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

<http://www.cms.hhs.gov/PaperworkReductionActof1995>.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786-1326.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following ICR. More detailed information can be found in the 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. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

Information Collection

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Pre-Claim Review Demonstration For Home Health Services *Use:* Section 402(a)(1)(J) of the Social Security Amendments of 1967 (42 U.S.C. 1395b-1(a)(1)(J)) authorizes the Secretary to “develop or demonstrate improved methods for the investigation and prosecution of fraud in the provision of care or services under the health programs established by the Social Security Act (the Act).” Pursuant to this authority, the CMS seeks to develop and implement a Medicare demonstration project, which CMS believes will help assist in developing improved procedures for the identification, investigation, and prosecution of Medicare fraud occurring among Home Health Agencies (HHA) providing services to Medicare beneficiaries.

This revised demonstration helps assist in developing improved procedures for the identification, investigation, and prosecution of potential Medicare fraud. The demonstration helps make sure that payments for home health services are appropriate through either pre-claim or post payment review, thereby working towards the prevention and identification of potential fraud, waste, and abuse; the protection of Medicare Trust Funds from improper payments; and

the reduction of Medicare appeals. CMS has implemented the demonstration in Illinois, Ohio, North Carolina, Florida, and Texas with the option to expand to other states in the Palmetto/JM jurisdiction. Under this demonstration, CMS offers choices for providers to demonstrate their compliance with CMS' home health policies. Providers in the demonstration states may participate in either 100 percent pre-claim review or 100 percent post payment review. These providers will continue to be subject to a review method until the HHA reaches the target affirmation or claim approval rate. Once an HHA reaches the target pre-claim review affirmation or post-payment review claim approval rate, it may choose to be relieved from claim reviews, except for a spot check of their claims to ensure continued compliance. Providers who do not wish to participate in either 100 percent pre-claim or post payment reviews have the option to furnish home health services and submit the associated claim for payment without undergoing such reviews; however, they will receive a 25 percent payment reduction on all claims submitted for home health services and may be eligible for review by the Recovery Audit Contractors.

The information required under this collection is required by Medicare contractors to determine proper payment or if there is a suspicion of fraud. Under the pre-claim review option, the HHA sends the pre-claim review request along with all required documentation to the Medicare contractor for review prior to submitting the final claim for payment. If a claim is submitted without a pre-claim review decision on one file, the Medicare contractor will request the information from the HHA to determine if payment is appropriate. For the post payment review option, the Medicare contractor will also request the information from the HHA provider who submitted the claim for payment from the Medicare program to determine if payment was appropriate. *Form Number:* CMS-10599 (OMB control number: 0938-1311); *Frequency:* Frequently, until the HHA reaches the target affirmation or claim approval threshold and then occasionally; *Affected Public:* Private Sector (Business or other for-profits and Not-for-profits); *Number of Respondents:* 4,700; *Number of Responses:* 3,173,016; *Total Annual Hours:* 1,600,608. (For questions regarding this collection contact Jennifer McMullen (410)786-7635.)

William N. Parham, III

Director,

Division of Information Collections and Regulatory

Impacts,

Office of Strategic Operations and Regulatory Affairs.

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