

**SUPPORTING STATEMENT FOR FORM CMS-265-94
INDEPENDENT RENAL DIALYSIS FACILITY COST REPORT**

A. BACKGROUND

CMS is requesting the Office of Management and Budget (OMB) extend the approval of Form CMS 265-94 (OMB No. 0938-0236), the Independent Renal Dialysis Facility Cost Report. Revisions have been made to the original forms and have been incorporated within this request for approval. The Form CMS 265-94, the Independent Renal Dialysis Facility Cost Report, is filed annually by providers participating in the Medicare program to identify the specific items of cost and statistics of facility operation that independent renal dialysis facilities are required to report.

B. JUSTIFICATION

1. Need and Legal Basis

Providers of services participating in the Medicare program are required under sections 1815(a), 1833(e), 1861(v)(1)(A) and 1881 (b)(2)(B) of the Social Security Act (42 U.S.C. 1395g) to submit annual information to achieve settlement of costs for health care services rendered to Medicare beneficiaries. Independent Renal Dialysis (ESRD) facilities are required to submit adequate cost information pursuant to 42 CFR 413.24. The cost information shall be furnished in accordance with the cost reporting, record-keeping and audit requirements set forth in 42 CFR 413.20

The Form CMS 265-94 cost report is needed to determine the amount of reasonable cost due to the providers for furnishing medical services to Medicare beneficiaries.

2. Information Users

In accordance with sections 1815(a), 1833(e) , 1861(v)(1)(A) and 1881 (b)(2)(B) of the Social Security Act, providers of service in the Medicare program are required to submit annual information to achieve reimbursement for health care services rendered to Medicare beneficiaries. In addition, 42 CFR 413.20(b) sets forth that cost reports will be required from providers on an annual basis. Such cost reports are required to be filed with the provider's fiscal intermediary/Medicare Administrative Contractor (MAC)¹. The functions of the fiscal intermediary/MAC are described in section 1816 of the Social Security Act.

The fiscal intermediary/MAC uses the cost report not only to make settlement with the provider for the fiscal year covered by the cost report, but also in deciding whether to audit the records of the provider. 42 CFR 413.24(a) requires providers receiving payment on the basis of reimbursable cost to provide adequate cost data based on their

¹ As a result of contractor reform, references to the term "fiscal intermediary" will be transitioned to "Medicare Administrative Contractor."

financial and statistical records which must be capable of verification by qualified auditors. Besides determining program reimbursement, the data submitted on the cost reports supports management of the Federal programs. These data are extracted from the cost report, by the fiscal intermediaries/MACs, for transmission to CMS, and used in making projections of Medicare Trust Fund requirements. In addition, the data is available to Congress, researchers, universities, and other interested parties. However, collection of data is a secondary function of the cost report, whose primary function is the reimbursement of providers for services rendered program beneficiaries.

Further, the data collected will be used for the following additional purposes:

- a. Determination of reimbursements rates for renal dialysis treatments, self-dialysis training, and other reasonable and medically necessary services rendered in connection with these treatments;
- b. Justification of requests for adjustments or exceptions in the reimbursements rates; and,
- c. Accumulation of data for overall evaluation.

3. Improved Information Technology

Consideration has been given to the reduction of burden by the use of improved information technology to report required cost data. While some providers compute the cost report manually, many providers use an automated cost report preparation process. In the past CMS has encouraged providers to submit their cost reports using automated cost report preparation packages on a voluntary basis. For cost reporting periods ending on or after December 31, 2004, End Stage Renal Dialysis (ESRD) providers are required to submit cost reports via an electronic medium. The bulk of the estimated 196 hours per respondent required to complete the cost report is time to gather and compile the data as well as to maintain required records in addition to completing the forms. Therefore, the estimated hours per respondent have not been reduced. However, the use of a computer in the preparation results in a reduction of burden for the contractors. The burden of contractor hours has been reduced in consideration of the time saved by the electronic filing requirement.

4. Duplication and Similar Information

The cost report is a unique form that does not duplicate any other information collection. This form specifically provides for the reimbursement methodology that is unique to ESRD facilities. No other existing form can be modified for this purpose.

5. Small Business

This form has been designed with a view toward minimizing the reporting burden for small businesses. The form is collected as infrequently as possible (annually) and only those data items necessary to determine the appropriate reimbursement rates are required.

6. Less Frequent Collection

The CMS-265-94 is used by ESRD facilities to annually report specific items of operating costs and statistical information. The form is not used to effect cost settlements, however it does provide for the recovery of bad debts. If the information was collected less frequently, it could result in higher reimbursement costs in the ESRD program.

7. Special Circumstances

This information collection complies with all general information collection guidelines as described in 5 CFR 1320.6.

8. Federal Register Notice

A 60-day Federal Register notice was published on March 9, 2007.

The Federal Register final rule was published on August 22, 2003. This final rule mandated that ESRD facilities must submit cost reports in a standardized electronic format. All ESRD facilities are required to file electronically for cost reporting years ending on or after December 31, 2004. We reviewed and incorporated, where applicable, all relevant comments. A copy of the Federal Register is attached.

9. Payment/Gift to Respondent

There is no payment or gift to respondents.

10. Confidentiality

Confidentiality is not pledged. Medicare cost reports are subject to disclosure under the Freedom of Information Act.

11. Sensitive Questions

There are no questions of a sensitive nature.

12. Estimate of Burden (Hours & Wages)

- a. An estimate of the respondent burden was secured at the time of a previous approval from a representative sample of organizations required to use the CMS-265-94. The average respondent should be able to complete the cost report by manual means in 196 hours. The estimate includes time to gather and compile the data, as well as to maintain required records and complete the forms. This is based on information furnished to us through prior consultations.
- b. The respondent cost is calculated at the standard rate of \$12.00 per hour.

c. As of 11/15/2006, there are 4,885 ESRD facilities. With each one filing one cost report per year, the burden is calculated as 4,885 facilities times 196 hours per facility for a total of 957,460 hours.

d. Respondent cost is calculated as follows:

1. Number of ESRD facilities	4,885
2. Hours burden per facility	<u>196</u>
3. Total hours burden (4,885 facilities x 196 hours)	957,460
4. Standard rate	\$12.00
5. Total respondent cost estimate	<u>\$ 11,489,520</u>

e. The total respondent cost estimate of \$11,489,520 is an increase of \$3,041,136 over the prior total respondent cost estimate of \$8,448,384. The increase in the total respondent cost estimate is due to the increase in the number of respondents.

13. Capital Costs

There are no capital costs.

14. Cost to Federal Government

a. Initial contractor handling and processing (11 hours x \$17.70/hour x 4,885 reports)	\$ 951,110
b. Follow-up contractor activities (8 hours x \$17.70/hour x 150 reports)	21,240
c. CMS processing costs- staff (32 hours x \$14.57 x 4,885)	2,277,582
d. CMS processing costs- ADP	50,000
e. Printing and distribution	<u>10,000</u>
f. TOTAL (annual cost estimate)	<u>\$ 3,309,932</u>

15. Program Changes

While the Program did not change, the following revisions did occur:

The burden increase of 253,428 hours since the last approval is due to an increase in the number of respondents from 3,592 (as of 10/01/2003) to 4,885 as of 11/15/2006.

Electronic submission is required for cost reporting periods ending on or after December 31, 2004. The bulk of the estimated 196 hours per respondent required to complete the cost report is time to gather and compile the data as well as to maintain required records in addition to completing the forms. Therefore, the estimated hours per respondent have not been reduced. However, the use of a computer in the preparation results in a reduction of burden for the contractors. The burden of contractor hours has been reduced in consideration of the time saved by the electronic filing requirement.

[Worksheet B, Worksheet C and Worksheet D have been modified to implement provisions of the Medicare Prescription Drug Improvement and Modernization Act of 2003 \(MMA\).](#) On Worksheet B, the allocation of Administrative and General cost to Separately Billable Drugs was eliminated. On Worksheet C, two columns were sub-divided to identify services before 4/1/2005 and on/after 4/1/2005. A line was added to Worksheet D to report bad debts for dual eligible beneficiaries (a subset of the total bad debts reported on another line). None of these changes request new information; rather, the changes require reporting of data in greater detail than was previously reported. [The revised forms are attached.](#)

16. Publication and Tabulation Dates

The primary purpose of this report is reimbursement rate-setting and not publication of statistics. However, some of the statistics and financial data are used in various CMS publications.

17. Expiration Date

We request an exemption from displaying the expiration date since the forms are changed so infrequently.

18. Certification Statement

There are no exceptions to the certification statement identified in Item 19 of OMB Form 83-I.