

**Supporting Statement for  
The Office of Medicare Hearings and Appeals (OMHA)  
Appellant Climate Survey  
and Supporting Regulations Contained in  
42 or 45 CFR xxx.xxx**

**Background**

The Office of Medicare Hearings and Appeals (OMHA) requests a three-year programmatic clearance from the Office of Management and Budget (OMB) to conduct customer research through external surveys by means of telephone interviews and web-based surveys.

The proposed information collection request (ICR) covers all types of OMHA appellants, with a primary focus on the three appellant types who receive benefits from OMHA – beneficiaries, providers, and suppliers.

**A. Justification**

**1. Need and Legal Basis**

Section 301 of the Public Health Service Act (42 U.S.C.241) is the authorizing law for data collections within the Department of Health and Human Services. Specifically, agencies within HHS should “collect and make available through publications and other appropriate means...research and other activities”.

The Government Performance and Results Act (GPRA) of 1993 (Pub.L. No. 103-62) sets out to “improve Federal program effectiveness and public accountability by promoting a new focus on results, service quality, and customer satisfaction” (Section 2. b. 3). In order to fulfill this responsibility, HHS offices must collect data from their respective user groups to (1) better understand the needs and desires of the public and (2) respond to those needs and desires accordingly.

This course of action is fortified by Executive Order (E.O.) 12862 (September 11, 1993) aimed at “ensuring the Federal Government provides the highest quality service possible to the American people.” The E.O. discusses surveys as a means for determining the kinds and qualities of service desired by the Federal Government’s customers and for determining satisfaction levels for existing service. These voluntary customer surveys will be used to ascertain customer satisfaction with OMHA appellants and to report on annual performance goals as set out in GPRA-related documents. The results are used internally, and summaries are provided to the Office of Management and Budget (OMB) on an annual basis and are used to satisfy the requirements and spirit of E.O. 12862.

## **2. Information Users**

Chiefly, these data are being collected to improve the service that OMHA provides to its appellants. OMHA was established by the Medicare Prescription Drug, Improvement, and Modernization Act (MMA) of 2003 (P.L. 108-173) and became operational on July 1, 2005. The MMA legislation and implementing regulations issued on March 8, 2007 instituted a number of changes in the appeals process. The MMA legislation also directed the U.S. Department of Health and Human Services to consider the feasibility of “conducting hearings using tele or video-conference technologies.” In carrying out this mandate, OMHA makes extensive use of VTC to provide appellants with a vast nationwide network of access points for hearings close to their homes. The survey will gauge appellants’ satisfaction with this new service along with the overall appeals experience. By identifying areas of success as well as areas for improvement, OMHA will be able to continuously improve its existing processes.

The information obtained could lead to reallocation of resources, revisions in certain agency processes, and development of guidance related to the agency’s customer services. Ultimately, these changes should result in improvement in the services OMHA provides to the public and, in turn, the public perception of OMHA.

More specifically, OMHA will use this data to support its FY07-FY12 Strategic Plan, while also fulfilling the requirements of the Government Performance and Results Act (GPRA). GPRA requires OMHA to report annually on their progress toward achieving specific Performance Goals. Performance Goal 2 in the OMHA Strategic Plan will measure whether or not “appellants and related parties are satisfied with their Level III appeals experience”. This goal depends on OMHA having a programmatic clearance in place to facilitate the survey process.

## **3. Improved Information Technology**

Improved information technology will be used, when possible, to reduce the burden on the public. In keeping with the Government Paperwork Elimination Act (GPEA), one of the goals of this effort is to obtain the information required with a minimum amount of burden to the public by allowing respondents to use Internet technology when available. OMHA estimates that 30% of its data will be collected via the Internet, with the remaining 70% occurring through telephone interviews. The use of Internet technology will greatly reduce the burden on the public, by diminishing overall costs and reducing the amount of time respondents must spend completing their individual survey.

By employing a mixed-method approach to survey implementation, OMHA will be able to obtain quality results and a high response rate, while also minimizing costs. To the degree that online respondents are unable to complete certain portions of their survey, OMHA will use phone interviews to follow-up with these respondents and clarify any areas of concern.

#### **4. Duplication of Similar Information**

This effort does not duplicate any other survey being done by HHS, OMHA, or any other Federal agency. OMHA has only been operational since July 1, 2005 and has not yet performed any data collections related to the satisfaction of appellant experiences. A search of GAO reports results in a number of documents describing the transfer of Medicare appeals from the Social Security Administration (SSA) to the Department of Health and Human Services (HHS), as well as several studies on the speed with which appeals occur, but these reports do not specifically and systematically measure the satisfaction individual appellants have with the new Medicare claims appeals process. This is OMHA's first customer satisfaction survey. As such, redundancy will not be an issue with this data collection. In 2007, the HHS Office of the Inspector General conducted interviews with a very small set of appellants. While that sample is not available to OMHA, it is very unlikely that we will recontact the same appellants, as we are collecting data only from appellants whose cases have closed in 2008 and later.

#### **5. Small Businesses**

This data collection will impact small businesses, and, in some cases, individual appellants. However, the use of a stratified random sampling system will limit the number of small businesses or individual appellants needed to participate in the study. The use of Internet survey technology will further reduce the time and monetary burden placed on small entities. OMHA will also pre-populate data that can be acquired without the assistance of the small entity, so that the entity only needs to verify this information, rather than research its own files.

#### **6. Less Frequent Collection**

Without this information collection, OMHA would not be able to measure appellants' satisfaction with the existing process, and would also be limited in its ability to implement improvements. In addition, OMHA would not be able to meet the requirements of GPRA, Executive Order 12862, or its OMB commitment.

For this project OMHA will collect data quarterly, sampling appeals that were closed within the previous six months. For instance, for the 1<sup>st</sup> quarter of Fiscal Year 2009 OMHA will obtain a stratified random sample from the list of all cases closed between April 1<sup>st</sup>, 2008, and September 30<sup>th</sup>, 2008. Because OMHA will sample without replacement each quarter, but aggregate data for the entire year, an individual respondent will be asked to participate no more than once per year. This methodology must be used in order to obtain a representative sample.

#### **7. Special Circumstances**

The collection of information is consistent with 5 CFR 1320.5(d)(2), and there are no special circumstances with respect to reporting.

### **8. Federal Register Notice/Outside Consultation**

A 60-day Federal Register Notice was published in the *Federal Register* on December 31, 2007, vol. 72, No. 249; pp. 74296-74297. There were no public comments.

Aside from internal consultation, OMHA worked with nine appellants to verify the language and length of the survey instrument. All nine appellants participated in a telephone interview format where they were able to give feedback on the survey instrument and suggest changes.

### **9. Payment/Gift to Respondents**

A great deal of the literature related to customer satisfaction research recommends that incentives, monetary and non-monetary, be used to increase response rates (see D. Dillman publications, specifically *Mail and Internet Surveys*, 2000). However, because OMHA is a federal adjudicative agency and must maintain judicial and decisional independence, providing remuneration to survey participants is inappropriate. Because of the usage of a mixed-method approach to survey implementation OMHA believes it will be able to maintain a high response rate, and through the usage of stratified random sampling OMHA will ensure that the data it obtains will be statistically significant and informative.

### **10. Confidentiality**

OMHA will take steps to protect information submitted by respondents for this survey collection, in accordance with the Freedom of Information Act and the Privacy Act. As explained in 2002 CFR Title 45, Volume 1, Section 5b.3, “It is the policy of the Department to protect the privacy of individuals to the fullest extent possible while nonetheless permitting the exchange of records required to fulfill the administrative and program responsibilities of the Department”.

In addition to complying with these legislative standards OMHA will also take steps to explain to individual respondents the need for and value of this data collection, as well as the methods used to maintain anonymity. These methods include signed statements for all users of sensitive information, and computer encryption certified for FIPS 140-2 standards for all users of this information.

### **11. Sensitive Questions**

Sensitive data – including name, phone numbers, and e-mail addresses – need to be

collected to identify and contact a statistically significant sample of survey respondents. Once these individuals have been contacted and their surveys completed all sensitive information will be removed from the database. Respondents will be informed of these assurances on the first page of the survey form or at the beginning of the survey interview.

## **12. Burden Estimate (Total Hours & Wages)**

Each year, OMHA expects to obtain 400 completed surveys for a stratified random sample of appellants, with each survey response requiring 11 minutes to complete. This time estimate is based on research performed by OMHA with the existing survey instrument. Given these numbers, 73 burden hours will be required each year to complete this collection.

Of the 400 surveys, 70%, or 280, will come from beneficiaries, while the remaining 30% (120) will come from healthcare providers and suppliers. For burden cost estimation, the 120 providers will be charged at a rate of \$23, with the 280 beneficiary respondents charged at a rate of \$14.73.

As a result, OMHA estimates an approximate aggregate cost to respondents of \$1257, based on the per hour valuations of volunteer time seen above and the projected 73 budget hours.

The 400 completed surveys will correspond with a stratified random sample of unique (non-redundant) appellant records. A full list of closed appeals for a specific six month period will be obtained quarterly, with the six months matching the two quarters that preceded the actual collection. For example, a 1<sup>st</sup> quarter collection in FY09 would include data from the 3<sup>rd</sup> and 4<sup>th</sup> quarters of FY08 (April 1, 2008 – September 30, 2008). These data will then be reduced by removing redundant entries, with a final population of approximately 3500 respondents being available for sampling.

OMHA will then use a stratified random sampling method to select individual cases for survey response. The total population of 3500 respondents will be stratified by Hearing Format and Medicare Part, thus improving the representation of the total population while also maintaining a 95% level of statistical significance.

Formal pre-tests of the survey occurred with nine respondents, to refine the previous estimates and make necessary improvements to the previous survey. The complete estimated annualized burden can be seen below:

12A. Estimated Annualized Burden Table

Type of Respondent	Form Name	No. of Respondents	No. Responses per Respondent	Average Burden per Response (in hours)	Total Burden Hours
Healthcare Providers and Suppliers	Form A	120	1	11/60	22
Beneficiaries	Form A	280	1	11/60	51
Total		400	1	11/60	73

12B.

Type of Respondent	Total Burden Hours	Hourly Wage Rate	Total Respondent Costs
Healthcare Providers and Suppliers	22	\$23.00	\$506.00
Beneficiaries	51	\$14.73	\$751.23
Total	73	-	\$1257.23

**13. Capital Costs (Maintenance of Capital Costs)**

OMHA identifies no capital or start-up costs, or maintenance of capital costs, associated with this proposed collection of information.

**14. Cost to Federal Government**

This OMHA survey project will occur annually for three years. Major fluctuations in cost are not expected. Specifically, OMHA expects the survey’s contractor costs to be approximately \$140,000 annually. This includes all costs related to reporting, survey administration, survey development, and communication between the contractor and OMHA. Contractor hour estimates are based on previous survey projects conducted by the contractor, including several projects for HHS. The total contractor amount of \$140,000 annually which also includes an initial start-up cost for web and CATI

programming of the survey.

In addition, the OMHA employees participating in this effort will add an additional \$35,000 to the annual cost burden, making the total cost to the government \$175,000 per year.

### **15. Program or Burden Changes**

This is a new data collection.

### **16. Publication and Tabulation Dates**

Data will be collected on a quarterly basis to maximize response rates and then aggregated into a final annual report. Quarterly reports will be created and delivered to internal OMHA staff members to display progress and give policymakers an initial understanding of potential findings and recommendations. Each quarterly report will be delivered prior to the conclusion of its particular quarter.

For example, OMHA will obtain a complete list of all appeals closed in the six months prior to a particular quarter. For the 1<sup>st</sup> quarter of Fiscal Year 2009, this would include any cases closed between April 1, 2008 and September 30, 2008. Once that data is collected redundant appellants will be eliminated from the sampling frame and the entire universe of respondents will be stratified by two factors – Hearing Format and Medicare Part.

OMHA will use a rolling data collection process, meaning that data will be continuously collected throughout the Fiscal Year. During each quarter OMHA will obtain 100 completed surveys so as to ensure that 400 completed surveys are collected each year. This number of surveys is needed to achieve a 95% rate of statistical significance. After data is analyzed a quarterly report will be created and delivered to internal OMHA staff. These reports will **not** be placed on the Internet or published for a large audience.

At the conclusion of each Fiscal Year OMHA will aggregate its 400 completed surveys and analyze the results. A complete annual report with specific recommendations will then be created and delivered to OMHA staff. A written version of this report will be published but maintained within OMHA. **No Internet publications will be made.**

This process will occur each quarter of each year over a three-year period. If OMB clearance is not obtained until after June 30, 2008, survey administration will begin in the first quarter of Fiscal Year 2009. If, however, clearance is obtained prior to June 30, 2009, survey administration will begin in Fiscal Year 2008, and will require OMHA to collect all 400 surveys prior to the end of the Fiscal Year (between the clearance date and September 15, 2008). If clearance is obtained in time for an FY08 report, no quarterly reports will be created, due to the time limitations associated with the data collection.

Instead, a full annual report will be created based on a sample population of 400 respondents.

**17. Expiration Date**

OMHA will display OMB's expiration date on the surveys.

**18. Certification Statement**

There are no exceptions to the certification.