

**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 1st quarter of Fiscal Year 2009 OMHA will obtain a stratified random sample from the list of all cases closed between April 1st, 2008, and September 30th, 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 1st quarter collection in FY09 would include data from the 3rd and 4th 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 1st 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.

B. Collection of Information Employing Statistical Methods

1. Respondent Universe and Sampling Methods

The respondent universe for this survey project will be all appeals that have been "Closed" during a six month period. OMHA will focus on a non-redundant appellant universe so as not to bias this study towards large entities that make up the vast majority of appeals, i.e. providers or suppliers file approximately 82% of the appeals and typically a single provider or supplier files multiple appeals throughout the year. Further, the survey takes into account the multiple hearings for a non-redundant appellant. Based on initial analysis of the population, there will be roughly 3500 non-redundant appellants whose cases have been closed in the previous six months. Roughly 70% of these appellants – or 2500 – are individual beneficiaries. The remaining 1000 are providers or suppliers. The focus of this study is on appellant satisfaction with the existing process, and therefore it is important to treat each appellant – regardless of type – as an individual entity.

With a total population of 3500, a sample of roughly 400 will be needed to achieve a level of 95% statistical significance. In order to ensure that the sample is representative of the larger population, OMHA will randomly stratify the sample by two factors: Hearing Format and Medicare Part.

There are three types of Hearing Formats:

- In-Person Hearings
- Telephone Hearings
- Video Teleconference (VTC) Hearings

Additionally, there are five types of Medicare Parts:

- Part A
- Part B
- Part C
- Part D
- Other – a combination of “IRMAA” and “Entitlement” Hearings

Given the percentage distribution of the entire population by these two factors, a final stratified random sample would include the number of completed surveys listed below.

Random, Stratified Sample per Year

		Hearing Format			
		In-Person	Phone	VTC	Total
Medicare Part	A	5	71	25	100
	B	15	207	12	234
	C	5	22	5	32
	D	5	5	5	15
	Other	5	8	5	18
	Total	35	312	52	400

Given a response rate of 60%, the following number of appellants will need to be contacted each year:

Total Number of Appellants OMHA will Contact, Given a 60% Response Rate

		Hearing Format			
		In-Person	Phone	VTC	Total
Medicare Part	A	8	106	37	151
	B	23	310	19	352
	C	8	33	7	48
	D	8	7	7	22
	Other	7	12	8	27
	Total	54	468	78	600

2. Procedures for the Collection of Information

OMHA derived its total sample based on three factors:

1. The number of unique (non-redundant) appellants who have had an appeal closed in the previous six months;
2. A 95% confidence level
3. A margin of error of +/- 5%.

Given the total respondent population (n=3500), an annual sample of 400 responses is needed. In order to reduce the burden on OMHA staff and maintain a moving average of appellant satisfaction that can be viewed over time, responses will be obtained quarterly, with 100 responses generated in Q1, 100 in Q2, 100 in Q3, and 100 in Q4.

In each quarter a new sample will be used, but OMHA will sample without replacement, so as to ensure that no appellants are surveyed any more than once per year. A stratified random sample based on the two factors identified above – Hearing Format and Medicare Part – will be used to obtain the most representative data possible.

The process of collecting data will occur in the following fashion:

1. At the beginning of each quarter, OMHA will obtain a list of all unique appellants who have had an appeal closed in the previous six months. For the 1st quarter of Fiscal Year 2009, this would include all appeals that have been closed between April 1st and September 30th, 2008.
2. OMHA will provide this data to the contractor, Coray Gurnitz Consulting (CGC), who will use the stratified random sampling methodology outlined above to obtain a list of potential survey respondents.
3. CGC will place the survey online so that respondents can access it electronically, and create a telephone script to be used for telephone respondents.
4. Using Don Dillman's "Tailored Design Method" for maximizing survey response, OMHA will send out letters and e-mails to all potential respondents announcing the survey. These letters and e-mails will contain official signatures and labels to verify the organization's intent and professionalism.
5. One week after these items have been distributed, OMHA will send out a second e-mail with the survey link, so that respondents are able to complete the survey online.
6. At this time the CGC phone interviewers will begin to contact potential respondents over the phone to inquire about their availability to complete the survey. If they are interested, a time for completion will be scheduled.
7. Two weeks after the initial e-mails and telephone calls have been made, reminder calls and e-mails will occur.

Given the time frame listed above, OMHA should be able to draw the sample and contact each respondent three times in the first month of a given quarter: the first contact

announces the survey (one week into the quarter), the second contact **invites** respondents to participate in the survey (two weeks into the quarter), and the third contact **reminds** respondents to complete the survey (four weeks into the quarter).

Electronic survey responses will be stored electronically and downloaded into a Microsoft Excel or SPSS database. Telephone responses will be entered into one of these databases at the time of the call, and then stored in either format.

3. Methods to Maximize Response Rates and Deal with Nonresponse

Based on OMHA's review of other HHS surveys of a similar type, including surveys conducted agency-wide and ones developed for a specific OPDIV, a 60% response rate is expected. Although such a response rate is below the usual OMB requirement, the usage of Internet technology and the stratification of the sample should lead to minimal burden increases for OMHA's staff and budget. Despite the expectation of a 60% response rate, several methods will be used to increase this rate of response.

First, OMHA will maximize response rates by using a mixed method survey approach. In the text "Survey Non-Response", author and editor Don Dillman identifies several factors that will positively impact respondent cooperation, including:

- **Using a notable agency for data collection:**
All letters, surveys, and e-mail announcements will contain OMHA's seal and logo, so as to improve the confidence respondents have with the survey.
- **Advance Warning of the Survey Request:**
As described above, each respondent will receive both an e-mail and standard mail survey announcement. Respondents will also receive a telephone invitation to schedule a time for survey completion, assuming they have not already completed the survey online.
- **Follow-up Procedures:**
After the initial invitations and survey links have been distributed, OMHA and its contractor will follow up with potential respondents via e-mail messages or telephone reminders.

Each of these methods will improve the overall response rate and minimize non-response. Furthermore, the initial reminder e-mails and phone calls will be complete within the first month of a given quarter, meaning that OMHA will have two months of focused follow-up to improve its response rate, if necessary. In a given quarter, OMHA will only need to collect 100 survey responses to achieve a 95% rate of confidence, giving the agency more than enough time to contact appellants about the survey.

4. Tests of Procedures or Methods to be Undertaken

OMHA anticipates two forms of testing prior to survey administration. First, a small, random sample of potential respondents (n=9) will be asked to comment on the survey and its questions. The goal with this test is to improve question wording and identify data elements that should be collected and provided to the respondents in advance of their participation.

A second test will be used to ensure that the Internet link created for this survey is totally accessible by all potential respondents. Because OMHA has four office locations, 1-2 internal staff members at each location can participate in this testing in an effort to ensure technical feasibility. This second testing procedure will *not* lead to content-specific changes in the survey. This testing will only be used to ensure that any technological system used to gather data will be fully functional at the time of survey announcement.

5. Individuals Consulted on Statistical Aspects and Individuals Collecting and/or Analyzing Data

Three members of the OMHA staff will play a primary role in this project:

- Sharon Bailey – Attorney Advisor, 703-235-0144, Sharon.Bailey@hhs.gov
- Maria Price-Detherage – Director, Executive Office, 703-235-0689, Maria.Price-Detherage@hhs.gov
- Systems Analyst / Reports Specialist

This submission was prepared in consultation with contractors from Coray Gurnitz Consulting, specifically David Spak, M.P.P., (david.spak@cgstrategy.com) and Kevin Coray, Ph.D. (kevin.coray@cgstrategy.com). Dr. Coray can be reached at 703-527-7001.

With respect to specific tasks, the following individuals were responsible for:

- 1) designing the data collection: Ms. Bailey, Ms. Price-Detherage, and Dr. Coray.
- 2) collecting the data: Coray Gurnitz Consulting staff.
- 3) analyzing the data: Coray Gurnitz Consulting staff.