

**Justification for Emergency PRA Clearance to
Applications for
Medicare Advantage Coordinated Care Plans, Private Fee-For-Service Plans,
Medicare Regional PPO Plans, Service Area Expansion for Coordinated Care
Plans, Private Fee Service Plans, Medical Savings Account Plans, Special Needs
Plans, and Employer Group Waiver Plans**

Subject:

CMS is requesting emergency approval of revisions of a currently approved collection, OMB #0938-0935, "Medicare Advantage Part C Applications" (CMS 10237, and CMS 10214). The requested revisions include clarifying edits related to the application submission process, technical edits to reflect date changes for the 2010 contract year and new language edits related to the enactment of The Medicare Improvements for Patients and Providers Act of 2008 (MIPPA). We are requesting emergency approval under 5 CFR 1320.13(a)(2)(iii) to accommodate the statutorily mandated timelines under MIPPA.

Background:

The Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) established a major Federal effort to modernize Medicare Managed Care. Through this initiative, the Congress changed the name of Medicare's managed care program to the Medicare Advantage (MA) Program, making some fundamental changes while retaining other key features of the Medicare + Choice program that it replaced. The new features of the MA program were intended to encourage organizations to offer a greater selection of health plan options for Medicare beneficiaries. In implementing the MA program, CMS developed separate application formats to ensure that organizations were in compliance with the requirements for the different plan types introduced under MA and to provide potential applicants with efficient application vehicles. On July 15, 2008, Congress enacted MIPPA which contained several provisions that affected the MA program.

Justification

CMS is in the process of publishing regulations that are intended to be released as an interim final rule with comment. Many of the provisions included in MIPPA that impact the MA program are self-implementing, meaning these provisions will go into effect without further regulatory clarification or changes to the Part C applications. Therefore, CMS is seeking emergency PRA approval to amend the Part C applications to reflect the new MIPPA requirements. As part of the revised information collection request, CMS will implement into the Part C applications sections 163,164 and 167 of MIPPA. These sections amend the contractual requirements that Part C sponsors (applicants) must have with CMS and with any downstream or related entities performing Part C functions on the sponsor's behalf. Currently CMS provides templates that contain the required language for the contracts based on the statute and regulations. While applicants do not have to use the exact CMS contract templates, they will be responsible for including the required language in the contracts when they submit materials to CMS for the 2010 contract year. By including these provisions in the templates, CMS is helping applicants by clearly indicating the language expected in the contracts thereby avoiding post-hoc compliance issues after Part C contracts are awarded. The applications do not represent new policy, but rather implement the provisions that will exist in the forthcoming regulations. Therefore the material

being added to the applications will only reflect changes made by Congress to the Medicare Advantage Part C applications, including Private Fee-For Service Plans,, Medical Savings Account Plans, Special Needs Plans and Employer Group Waiver Plans. CMS does not expect that the MIPPA provisions will increase the burden hours to complete the application, as the changes are yes/no attestation statements.

The MMA requires submission of the Part C benefit bids from applicant organizations by June 1, 2009. In order to ensure appropriate due process for any applicants that may have their Part C application denied, CMS provides applicants with approximately 45 days to complete the application and then takes about 6 weeks to review with two opportunities for the applicants to correct any deficiencies.

In addition to the new requirements mandated by MIPPA, we will also be clarifying updates made to the existing language of the Part C applications. Updates include date changes and incorporating the most current references to the statute, regulations and CMS guidance above each section as appropriate. Lastly, clarifying instructions were added to more clearly articulate the application submission process through the Health Plan Management System (HPMS); these changes only streamline points of confusion from last year’s application and do not reflect substantive change or increased burden on applicants.

Meeting the timeline for the Part C benefit represents a challenge for new entrants. CMS has developed a schedule for release that incorporates the time needed for applicants to complete the applications; the time needed for CMS to properly review the applications, and the time needed to allow any applicants to work through their appeal process by July 15th. Key dates for the application process are provided in the following table:

Application Review Process

PART C APPLICATION REVIEW PROCESS	
Date	Milestone
August 20, 2008	CPC submits to OSORA a request for emergency approval
August 22, 2008	OSORA submits request for emergency approval to OMB
August 27, 2008	OMB approval to submit ICR under emergency process requested
August 29, 2008	Draft package due to OSORA
September 15, 2008	Publish Federal Register notice with 30-day comment period
October 15, 2008	30-day comment period ends
December 12, 2008	OMB approval of ICR requested
January 6, 2009	CMS posts final applications on website
February 26, 2009	Part C applications due to CMS
May/June 2009	CMS sends Part C contract eligibility determination to Applicants, based on review of application. Applicant’s bids must still be negotiated in a separate process.