Supporting Statement
for the
Medicare Disproportionate Share Adjustment for Hospitals and
Supporting Regulations in 42 CFR 412.106
CMS-R-194

A.   BACKGROUND

        Section 1886(d)(5)(F) of the Social Security Act established the Medicare disproportionate share adjustment (DSH) for hospitals, which provides additional payment to hospitals that serve a disproportionate share of the indigent patient population. This payment is an add-on to the set amount per case the Centers for Medicare and Medicaid Services (CMS) pays to hospitals under the Medicare Inpatient Prospective Payment System (IPPS).

        Under current regulations at 42 CFR 412.106, in order to meet the qualifying criteria for this additional DSH payment, a hospital must prove that a disproportionate percentage of its patients are low income using Supplemental Security Income (SSI) and Medicaid as proxies for this determination. This percentage includes two computations: (1) the "Medicare fraction" or the "SSI ratio" which is the percent of patient days for beneficiaries who are eligible for Medicare Part A and SSI and (2) the "Medicaid fraction" which is the percent of patient days for patients who are eligible for Medicaid but not Medicare. Once a hospital qualifies for this DSH payment, CMS also determines a hospital's payment adjustment based on these two fractions.

        By default, CMS calculates these fractions using a hospital's data based on the Federal fiscal year (FFY). However, the regulations permit a hospital to request that CMS re-calculate its "Medicare fraction" or "SSI ratio" using data based on its own cost reporting year. If a hospital opts for this re-calculation, it must formally notify CMS, in writing, through its Fiscal Intermediary (FI) or Medicare Administrative Contractor (MAC), of its intent and provide its name, provider number, and cost reporting year end. A hospital may make this request once per cost reporting period as long as the cost report is either open or subject to the three year re-opening period. Once a hospital receives its re-calculation, it is subject to the results regardless of the financial impact.

        Upon request, CMS will provide detailed inpatient data that supports the computation of the "Medicare fraction" or "SSI ratio." Since September 27, 2007, CMS has extracted these data from a system of records entitled Medicare Provider Analysis and Review ("MedPAR"), HHS/HCFA/OIS, 09-07-0009(65 Fed. Reg.50548). MedPAR was established, in part, to recalculate the "SSI ratios" for the DSH adjustment.

        Prior to publication of the FY 2006 Inpatient Prospective Payment System Rule, CMS only releases MedPAR data to hospitals with properly pending appeals relating to the hospital's DSH patient percentage before the Provider Reimbursement Review Board (PRRB).

These requests are processed through routine use procedures. Requestors are required to sign a data use agreement (DUA).

In the FY 2006 Inpatient Prospective Payment System Rule, CMS no longer requires that a hospital have a properly pending appeal before the PRRB relating to the hospital's DSH patient percentage in order to request this data beginning with cost reporting periods that include December 8, 2004 (70 Fed. Reg. 47439). Consequently, CMS also no longer charges for data associated with these time periods. These requests are also processed through routine use procedures, require the requestor to sign a DUA and, while they are similar to those prior to the publication of the rule of the MMA are processed separately.

This PRA submission and supporting statement addresses hospitals' formal requests for recalculation of their DSH patient percentage, their requests for MedPAR data prior to the publication of the FY 2006 Inpatient Prospective Payment System Rule, and their requests for MedPAR data after this publication.

B.   JUSTIFICATION

1.   Need and Legal Basis

Please see Section A. Background. Section 1886(d)(5)(F) of the Social Security Act and 42 CFR §412.106. As explained above, 42 CFR §412.106 allows hospitals to request that the Medicare fraction of the DSH adjustment be calculated on a cost reporting basis rather than a federal fiscal year. Once requested, the hospital must accept the result irrespective of whether it increases or decreases their DSH payment. The routine use procedure and the DUA allows hospitals to request the detailed Medicare data so they can make an informed choice before deciding whether to request that the Medicare fraction be calculated on the basis of a cost reporting period rather than a federal fiscal year.

2.   Information Users

Hospitals and their consultants may request this information.

3.   Improved Information Technology

At this time, this recalculation request procedure and the data request procedures do not lend themselves to electronic submission. However, a hospital is no longer required to submit a copy of its Medicare Part A data for comparison purposes when it

requests a recalculation of its data. Instead, CMS uses its own databases to obtain the information applicable to each hospital's cost reporting period. Therefore, the reporting burden to hospitals has been significantly reduced.

4.   Duplication

       The information we are requesting is different and does not duplicate any other effort. For a request to recalculate its "Medicare fraction" or "SSI ratio," a hospital is required to submit one written request to its FI or MAC listing its name, provider number, and cost reporting period year-end. For a request for its MedPAR data related to the "Medicare fraction" or "SSI ratio," a hospital or its agent submits voluntary requests

5.   Small Business

       This collection does not affect small businesses.

6.   Less Frequent Collection

       For a request to recalculate its "Medicare fraction" or "SSI ratio," a hospital can only make one request per cost reporting period. It is not possible for this information to be received any less frequently as CMS would not be able to obtain the needed data. The same applies for requests for MedPAR data related to the "Medicare fraction" or SSI ratio."

7.   Special Circumstances

       There are no special circumstances.

8.   Federal Register Notice/Outside Consultation

       A 60-day Federal Register notice was published on May 15, 2009.

       The Federal Register notice for the original routine use procedure was published on August 18, 2000 (65 Fed. Reg. 50548). Subsequent publication for the release of data was published on Aug.12, 2005 (70 Fed. Reg. 47439).

9.   Payment/Gift to Respondent

       There is no payment/gift to respondent.

10.   Confidentiality

       The MedPAR data is required to be protected under the Privacy

Act.

11.   Sensitive Questions

        There are no questions of a sensitive nature.

12.   Burden Estimate (Hours and Wages)

        For requests to recalculate hospitals' "Medicare fraction" or "SSI ratio,", the estimated total burden is 150 hours as follows:

        300 requests x 0.5 hours each = 150 hours

        For requests for MedPAR data related to the "Medicare fraction" or SSI ratio regardless of time period the estimated total burden is 250 hours as follows:

          500 requests x 0.5 hours each = 250 hours

13.   Capital Costs

        There are no capital costs.

14.   Cost to Federal Government

        There are 1.25 FTEs involved in the processing of the recalculation requests based on a provider's cost reporting period. For data requests, there are 3 FTEs who process the MedPAR data.

15.   Changes to Burden

        The increase in burden is due to an estimated increase in the number of requests for recalculation and also the estimated increase in the number of requests for MedPAR data that resulted from the FY 2006 Inpatient Prospective Payment System Rule. Because of this rule, CMS no longer requires that a hospital have a properly pending appeal before the PRRB relating to the hospital's DSH patient percentage in order to request its MedPAR data associated with calculation of its "Medicare fraction" or "SSI ratio" beginning with cost reporting periods that include December 8, 2004 (70 Fed. Reg. 47439). Consequently, CMS also no longer charges for data associated with these time periods.

16.   Publication and Tabulation Dates

The data resulting from the hospital requests is not to be published.

17.   Expiration Date

This collection does not lend itself to the displaying of an expiration date.

18.   Certification Statement

There are no exceptions to the certification statement.

C.   COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This section does not apply because statistical methods were not employed for this collection.