

Supporting Statement for Intermediate Care Facility for the Mentally Retarded or Persons with Related Conditions Survey Report Form (3070G-I) and Supporting Regulations at 42 CFR, 442.30, 483.410, 483.420, 483.440, 483.450, and 483.460

A. Background

This is a request for an extension of the currently approved Intermediate Care Facilities for the Mentally Retarded (ICF/MR) survey report form (Form 3070G-I).

In the Medicaid program, the Centers for Medicare & Medicaid Services (CMS) has the responsibility and authority to establish survey and certification policy on which provider compliance with the regulations is based. The information collection requirements contained in these regulations are used to determine ICF/MR compliance with COP.

The information collected with forms 3070G-I is used to determine the level of compliance with ICF/MR COP necessary to participate in the Medicare/Medicaid program. A certification statement is provided at the end of the form to certify that each ICF/MR COP and related requirements have been reviewed by the survey team and unless indicated on the survey report form, the facility was found to be in compliance with the requirement. Information needed to monitor the State's performance as well as the ICF/MR program in general, is available to CMS only through the use of information abstracted from the survey report form. The form varies in length depending upon the number of deficiencies recorded.

The survey report form is the instrument used by the State survey agency to record data collected during surveys in order to determine compliance with discreet requirements and to report to the Federal government. The form summarizes data relative to survey team characteristics, facility characteristics, client population and the special needs of clients. The form serves as a coding worksheet designed to facilitate data entry and retrieval into the Online Survey Certification and Reporting (OSCAR) system in the State and at the CMS regional offices.

Finally, the form serves as an aid to help the surveyor structure and record key observation data for subsequent reference and retrieval. The form is used in conjunction with the regulation text and additional surveyor aids called interpretive guidelines and probes.

The effective implementation date of the ICF/MR regulation was October 3, 1988. State surveyors began surveying for compliance with the regulation as of that date. The forms for which renewal is requested are compatible with the regulation and consist of three parts:

3070G                      This is the cover sheet for the ICF/MR survey report form, which summarizes data relative to facility characteristics including a description of the client population served, special needs of that population and essential characteristics of the survey conducted. This part provides comprehensive descriptive information about the facility, the clients served and the survey team.

The information collected also enables CMS to compare specific characteristics about ICF/MR and their clients with other Medicare and Medicaid providers. Physical restraint data is currently being captured on this form under individual characteristics, as are breakouts on abuse and neglect and deaths.

3070H This part of the form is used in conjunction with the regulation text and interpretive guidelines and includes basic information on non-compliance. Surveyors record all deficiencies found during a survey and affix their signatures certifying their review of all regulatory requirements.

3070I This form is used to record and structure surveyors' observations of service delivery in the facility so that salient data relative to compliance with the statutory active treatment requirements are available for analysis and retrieval. This is an optional form which structures more consistent and reliable enforcement of the active treatment requirement.

## B. Justification

### 1. Need and Legal Basis

This activity is authorized by Title XIX of the Social Security Act, Section 1905(d). This section recognizes ICF/MR as Medicaid providers and allows the Secretary to establish standards and to use State resources under contract in determining compliance with these standards. These standards are found in 42 CFR 431.52, 431.151, 435.1009, 440.150, 440.220, 442.1, 442.10-442.16, 442.30, 442.40, 442.42, 442.100-442.119, 483.400-483.480, 488.332, 488.400, and 498.3-498.5.

To determine compliance with the requirements, section 1902(a)(33)(B) of the Social Security Act requires the State to utilize the same agency used by the Secretary under Section 1864 of the Act to determine whether institutions meet the requirements for participating in the program. For Medicaid purposes, certification is based on the State survey agency's recording of a provider's compliance or non-compliance with the health and safety requirements published in the regulations.

In order for the State survey agency to report to CMS its generic findings on provider compliance or non-compliance with the individual requirements, the agency completes the 3070H. Each condition or requirement found out of compliance is identified in the space provided with appropriate explanatory statements regarding negative findings.

Demographic data from 3070G enables CMS to analyze trends in characteristics that are essential for future planning. The information is also used in comparing survey performance to client characteristics.

Data obtained from the 3070I (the observation worksheet) provides structure to obtain

more consistent and reliable enforcement of the active treatment requirements.

## 2. Information Users

CMS uses the information collected to monitor State conformance with Federal certification policy. The survey results are analyzed by the CMS regional offices and the Center for Medicaid and State Operations within CMS's central office. Information about facility and client characteristics and compliance with requirements from this form is coded into the OSCAR system and serves as the data base for provider compliance histories, trends in utilization and present and future survey and certification policy nationally. Additionally, since OSCAR serves as the only national data base containing characteristics of the services provided by all the ICF/MR, the data collected from this form enables CMS to analyze characteristics of the clients served by the program in relation to deficiencies and client needs. This information is also available to the public upon request.

## 3. Improved Information Technology

The survey forms (3070G and H) serve primarily as a coding worksheet for inputting data relative to the facilities, clients and compliance/non-compliance into the OSCAR system. The standardized format provides for consistent reporting by State survey agencies. As a result of redesigning the survey form, data can be keyed on-site into laptop computers used by State surveyors. Because the form can be duplicated by the computer, there are decreased costs for storage of the forms and surveyors have direct access to a sufficient supply of the forms as well as to information regarding previous compliance histories of the facilities being surveyed.

## 4. Duplication of Similar Information

These forms do not duplicate any other information collection system. The form addresses specific requirements for participation in the ICF/MR program. State survey agencies conduct the required surveys with Federal funds under contract with CMS. This form is a basic deliverable under these contracts and is CMS's only source of survey data for ICF/MR.

## 5. Small Businesses

These information collection requirements do not have a significant effect on small business. This regulation applies to all sizes of ICF/MR (e.g. 4 or more beds). Every effort was made to reduce this burden in the initial and continued development of the regulations.

## 6. Less Frequent Collection

State submission of the survey report form depends upon the frequency of provider surveys as required by regulation and also upon the availability of survey funds. Currently, each facility is required to be surveyed on at least an annual basis. Additional follow-up or monitoring by surveyors may be necessary for a facility which is not in compliance with Federal requirements. It is a basic contract requirement that State surveyors transmit their compliance findings for each survey they conduct. If this information collected less frequently, CMS would not be in compliance with the law.

7. Special Circumstances

There are no special circumstances associated with this collection. These requirements comply with all general information collection guidelines in 5 CFR 1320.6.

8. Federal Register Notice

CMS published a Federal Register notice with a 60-day comment period on December 18, 2009.

CMS has worked closely with a wide spectrum of public and private organizations in the development of this form. The forms were modified when pertinent comments were received. We are using the Paperwork Reduction Act process as an additional outside consultation for this renewal request.

9. Payment/Gift To Respondent

There are no payments or gifts associated with this collection.

10. Confidentiality

We do not pledge confidentiality.

11. Sensitive Questions

There are no questions of a sensitive nature associated with this form.

12. Burden Estimate (Total Hours & Wages)

**Form 3070G-I**

There are 6,437 ICF/MR nationally, which are surveyed annually by the State survey agency. When the burden was estimated previously, there were 6,657 facilities. The decrease in the number of facilities is due to many facilities converting to the Home and Community Based Waiver (HCBW) program where program guidelines are less stringent. Although the requirements are less stringent, the HCBW program as well as the ICF/MR program still place great emphasis on removing individuals with mental retardation from large institutions and placing them in small community- based settings which typically house from four to eight persons.

The survey report form is completed by the State surveyor based on the results of their investigation of provider compliance with each Condition of Participation and associated requirements. The surveyor indicates on the form only those requirements which are found deficient and provides statements to support each finding of non-compliance. Since the form is completed by indicating those requirements which are found to be non-compliant and recording explanatory statements about the evidence, we estimate that experienced State agency surveyors can complete the entire form in approximately 3 hours.

(Annual Burden Hour Calculation as follows: 6,437 facilities x 3hrs = 19,311 hours)

13. Capital Costs (Maintenance of Capital Costs)

There are no capital costs associated with this information collection.

14. Cost to Federal Government

The cost has decreased since the survey report form was initially approved due to the slight decrease in the number of ICF/MR providers.

Total Federal Cost	\$617,952
Number of Providers	6,437
Number of providers surveyed annually	6,437
Contracting costs per hour for surveyors	\$ 32.00
Time required to complete forms	3 hours
Total costs to complete forms	\$617,952

15. Program or Burden Changes

There are no program changes. Burden change is due to the following:

The response time of three hours remains unchanged from the previous submission 3 years ago. There are 6,437 (as of November 2009) facilities surveyed annually X 3 hours to complete the forms, totaling 19,311 burden hours. These numbers are different

from the numbers previously filed. We had mistakenly used the annual hourly responses to populate the annual responses field. The annual responses field should have read 6,657. Also, the burden estimate should have then total 19,971 hours ( $6657 \times 3 \text{ hrs} = 19,971 \text{ hrs}$ ); therefore, this submission should show a burden decrease of -660 hours. Due to the incorrect numbers submitted last time, we are now showing a slight increase of burden of 27 hours and a decrease of -12,847 in the number of annual responses.

16. Publication and Tabulation Dates

There are no publication and tabulation dates associated with this collection.

17. Expiration Date

CMS would like an exception to displaying the OMB expiration date, since to display a date would require us to throw away unused copies that are otherwise up-to-date.

18. Certification Statement

There are no exceptions to the certification statement.

C. Collection of Information Employing Statistical Methods

There are no statistical methods employed in this information collection.