

Supporting Statement for the
Important Message from Medicare
Contained in 42 CFR §405.1205 and §422.620

Introduction

This application requests a revision of an existing collection, 0938-0692, the Important Message from Medicare (IM), which is associated with final rule CMS-4105-F, [Medicare Program; Notification of Hospital Discharge Appeal Rights]. The final rule, implemented on July 2, 2007, set forth new requirements for how hospitals must notify Medicare beneficiaries who are hospital inpatients about their hospital discharge rights. Notice is required both for original Medicare beneficiaries and for beneficiaries enrolled in Medicare Advantage (MA) plans and other Medicare health plans subject to the MA regulations. The IM was approved by the Office of Management and Budget (OMB) in 2007 and expires on May 31, 2010.

A. Background

The IM continues to meet the requirements of final rule CMS-4105-F and section 1866(a)(1)(M) of the Social Security Act, including a statement of patients' rights, information about when a beneficiary will and will not be liable for charges for a continued stay in a hospital, and a detailed description of the QIO review process. The IM must be signed by the beneficiary (or representative, if applicable) to indicate that he or she comprehends its contents, and the hospital must retain a copy of the signed notice. The IM includes language stressing the importance of discussing discharge planning issues with physicians, plans, or hospital personnel to minimize the potential for disputes.

The IM is required to be given within 2 calendar days of admission, and hospitals are required to obtain the beneficiary's or representative's signature. Hospitals also have to provide beneficiaries with a copy of their signed IM no more than two days prior to their discharge, unless provision of the admission IM falls within 2 calendar days of the discharge.

We have updated the IM form and instructions for this renewal package. We made minor changes in the form formatting to assure accessibility in compliance with Section 508 of the Rehabilitation Act of 1973, as amended in 1998. In addition, we now require documentation of the time that the beneficiary or representative signs the IM or initials the follow up copy, along with the existing date documentation requirement. We believe that adding the time requirement to the collection will help to ensure that hospitals are providing timely and appropriate delivery of this notice.

B. Justification

1. Need and Legal Basis

Requirements that hospitals notify beneficiaries in inpatient hospital settings of their rights as a hospital patient including their discharge appeal rights are referenced in Section 1866(a)(1)(M) of the Social Security Act (the Act). The authority for the right to an expedited determination is set forth at Sections 1869(c)(3)(C)(iii)(III) and 1154(a) of the Act.

§405.1205, §422.620- The hospital must deliver valid, written notice (the IM) of a patient's rights as a hospital patient including the discharge appeal rights, within 2 calendar days of admission. A follow-up copy of the signed IM is given again as far as possible in advance of discharge, but no more than 2 calendar days before. Follow-up notice is not required if provision of the admission IM falls within 2 calendar days of discharge.

2. Information Users

In our prior PRA submission, the number of annual responses listed (13 million) was based solely on issuance of the initial IM because the delivery time estimate (15 minutes) included additional time required for delivery of a follow-up copy of the IM.

In this submission, we are including issuance of both the initial IM and the follow up copy of the IM in our annual response calculation to more accurately reflect how often the IM is given to inpatients. According to the 2008 CMS Statistics booklet published by the U.S. Department of Health and Human Services, in 2007 there were 6163 hospitals participating in Medicare that potentially would need to issue the notices. (Source: Table II.1 in 2008 CMS Statistics, U.S. Department of Health and Human Services, CMS Pub. No. 03490). According to CMS statistics

http://www.cms.hhs.gov/ResearchGenInfo/02_CMSStatistics.asp, there were approximately 12.3 million discharges in 2007; so, all of these inpatients would have received the initial IM. The average inpatient length of stay is five days. Approximately 60% of all inpatient stays are longer than three days. As noted on page 68710 in CMS-4105-F, we assume that hospitals typically deliver the original IM on the day of admission. Therefore, we estimate that a follow-up copy of the IM, at or near discharge, is required for all stays that exceed 3 days, which is approximately 7.38 million notices. The total number of IMs delivered annually, was then calculated by adding the number of initial IM

deliveries to the number of deliveries of the follow-up copy of the IM (12.3M + 7.38M = 19,680,000M).

Thus, the number of responses for this collection is 6,680,000 responses greater than the currently approved amount. Please see the burden estimate under section 12 for more detailed information.

3. Improved Information Technology

Hospitals must deliver a hard copy of the IM to beneficiaries or enrollees at the time of delivery, and a copy of the signed IM must be delivered at or near the time of discharge. There is no provision for alternative uses of information technology for the IM. However, in cases where the beneficiary has a representative who is not physically available, hospitals are permitted to give notification by telephone with a follow-up hard copy of the initial and/or follow-up IM delivered to the beneficiary's representative. Hospitals may store the signed copy of the IM electronically.

4. Duplication of Similar Information

None.

5. Small Business

This information collection will affect small businesses. However, the requirements have been designed to impose as little burden as possible on these providers. To simplify the notice structure, hospitals use a single notice for both original Medicare beneficiaries and MA enrollees. Hospitals are already required by statute to deliver an IM-like notice at or near admission. This collection affects hospitals by requiring them to deliver the IM and obtain the beneficiary's signature at or near admission and provide the beneficiary with a copy of the signed IM as soon as possible but not more than 2 calendar days before discharge, except for short stays.

6. Less Frequent Collection

None.

7. Special Circumstances

The regulations at §405.1205(b) and §422.620(b) require that the notices be validly delivered to either beneficiaries or, in circumstances where a beneficiary is unable to understand the notice, to the beneficiary's representative.

8. Federal Register Notice/Outside Consultation

A 60-day *Federal Register* notice was published on January 25, 2010. Interested parties had an opportunity to comment.

9. Payment/ Gift to Respondent

We do not plan to provide any payment or gifts to respondents.

10. Confidentiality

We are not collecting information. The provider and QIO will maintain records of notices and decisions, but those records do not become part of a federal system of records. Therefore, this item is not applicable.

11. Sensitive Questions

We do not require beneficiaries to answer any sensitive questions. Therefore, this item is not applicable.

12. Burden Estimate

The IM is already required by statute to be provided to all Medicare beneficiaries. In the prior PRA submission, this estimate was derived by combining the estimated delivery time for the initial IM with the estimated delivery time for the follow-up IM. Our prior estimated annual hour burden of 3,250,000 was based on calculations combining an IM delivery of 15 minutes and 13 million inpatient hospital stays.

A more accurate estimate of the total number of minutes per notice is calculated by multiplying the minutes per response associated with the initial IM (12 minutes) and the minutes/response for the follow-up IM (3 minutes) by the number of initial and follow-up IMs issued annually (see under 2).

The timeframes mentioned above are based on comments that we received on CMS-4105-P and consumer testing, where we estimated that it takes a hospital an average of 12 minutes to explain the notice and obtain a beneficiary's or representative's signature, and three minutes to deliver the signed, follow-up copy of the IM, when required to do so.

Initial IM: 12 minutes multiplied by 12,300,000 IMs = 147,600,000 minutes

Follow up IM: 3 minutes multiplied by 7,380,000 IMs = 22,140,000 minutes

The total annual IM response time is calculated by adding 147,600,000 minutes to 22,140,000 minutes, which results in 169,740,000 minutes. We divide 169,740,000 by 19,680,000, the total number of IMs issued annually, to calculate an IM response time of 8.625 minutes per notice which is rounded to 9 minutes.

Based on the 9 minute response time and annual frequency of responses, the annual hour burden is estimated to be 2,952,000. The cost per response is approximately \$4.50 per notice based on an hourly salary rate of \$30 and the 9 minute response estimate. By multiplying the annual responses by \$4.50, the annual cost burden estimate is \$88,560,000.

The number of annual inpatient hospitalizations has decreased and our calculations for this PRA submission are based on delivery of both the initial and follow up IM. Therefore, the annual hour burden has decreased by 298,000 hours. Similarly, we predict that the annual cost burden will be lower.

A cost estimate was not included in the 2007 PRA submission for this notice; however, the annual cost for the extension of this collection is actually lower than published estimates. Cost estimates published in the *Federal Register's* final rule estimated an \$83,200,000 annual cost burden increase. When added to the existing burden estimate of \$6,500,000, the estimated annual burden for the IM was \$89,700,000. Our estimated cost estimate for this submission is \$88,560,000. Therefore, we estimate that the cost burden associated with this collection has been reduced by \$1,140,000.

13. CAPITAL COSTS

There are no capital costs associated with this collection.

14. COSTS TO FEDERAL GOVERNMENT

There is no cost to the Federal Government for this collection.

15. PROGRAM OR BURDEN CHANGES

The IM is an existing collection. The total annual hour burden has decreased due to a decrease in the number of annual inpatient hospitalizations and a change in the method for calculating the hourly burden. In this PRA submission, the burden estimate is based on delivery of both the initial and follow up IMs. (See 2. and 12.)

Conversely, the estimated annual number of responses has increased since both types of notice delivery are now included in calculating the burden estimates.

The new requirement to include the time the notice was signed by the enrollee is not expected to affect the burden estimates since this element is already included in much of the documentation generated in the hospital setting.

16. PUBLICATION AND TABULATION DATES

These notices will be published on the Internet; however, no aggregate or individual data will be tabulated from them.

17. EXPIRATION DATE

We are not requesting exemption.

18. CERTIFICATION STATEMENT

There are no exceptions to the certification statement.

C. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

There are no statistical methods associated with this collection.