

Supporting Statement for the
Home Health Change of Care Notice (HHCCN) (CMS-10280)
Contained in 42 USC §1395(bbb) and 42 CFR §484.10(c)

INTRODUCTION

The Centers for Medicare and Medicaid Services (CMS) requests a new collection named the Home Health Change of Care Notice (HHCCN) to replace, in part, the existing, previously approved Office of Management and Budget (OMB) notice, titled the Home Health Advance Beneficiary Notice (HHABN) (CMS-R-296), OMB 0938-0781, that expires on October 31, 2012.

A. BACKGROUND

Home health agencies (HHAs) are required to provide written notice to original Medicare beneficiaries under various circumstances involving the initiation, reduction, or termination of services. The notice used in these situations has been the Home Health Advance Beneficiary Notice (HHABN), CMS-R-296.

The HHABN, originally a liability notice specifically for HHA issuance, was first approved for use and implementation in 2000 with the home health prospective payment system transition. In 2006, the notice underwent significant modifications subsequent to the decision of the US Court of Appeals (2nd Circuit) in *Lutwin v. Thompson*. HHABN content and formatting were revised so that it could be used to provide beneficiaries with change of care notification consistent with HHA Conditions of Participation (COPs) in addition to its liability notice function. Three interchangeable option boxes were introduced to the HHABN to support the added notification purposes. Option Box 1 addressed liability, Option Box 2 addressed change of care for agency reasons, and Option Box 3 addressed change of care due to provider orders. HHABN Collection 0938-0781 last received PRA approval in 2009 following minor notice changes such as accessibility reformatting for compliance with Section 508 of the Rehabilitation Act of 1973, as amended in 1998, and removal of the beneficiary's health insurance claim number (HICN).

In an effort to streamline, reduce, and simplify notices issued to Medicare beneficiaries, HHABN Option Box 1, the liability notice portion, will be replaced by the existing Advanced Beneficiary Notice of Noncoverage (ABN) which is approved by OMB (0938-0566), consistent with the Paperwork Reduction Act of 1995 (PRA), for conveying information on beneficiary liability. Written notices to inform beneficiaries of their liability under specific conditions have been available since the "limitation on liability" provisions in section 1879 of the Social Security Act were enacted in 1972 (P.L. 92-603). The ABN (CMS-R-131) is presently used by providers and suppliers other than HHAs to inform fee for service (FFS) Medicare beneficiaries of potential liability for certain items/services that might be billed to Medicare. The HHABN was developed specifically as the liability notice for HHA issuance. Since 2006, the HHABN has evolved to serve both liability and change of care notification purposes. Pursuant to a separate PRA package revising the use of the ABN, HHAs will now use the ABN for liability

notification, and the HHCCN will be introduced as a separate, distinct document to give change of care notice in compliance with HHA COPs. The HHCCN will replace both Option Box 2 and Option Box 3 formats of the HHABN. The single page format of the HHCCN is designed to specify whether the change of care is due to agency reasons or provider orders.

Suggestions made during the public comment period for the 2006 HHABN revision and industry feedback received in the years following implementation of the 2006 version of the HHABN were incorporated in developing the HHCCN and in the decision to separate HHA COP notices from HHA liability notices.

Implementing regulations are found at 42 CFR §484.10(c). These requirements are fulfilled by the HHCCN and subject to PRA.

B. JUSTIFICATION

1. NEED AND LEGAL BASIS

The home health COP requirements are set forth in §1891[42 USC 1395bbb] of the Social Security Act (the Act). The applicable regulations under 42 CFR §484.10(c) specify that Medicare patients receiving HHA services have the following rights:

“(c) Standard: Right to be informed and to participate in planning care and treatment. (1) The patient has the right to be informed, in advance about the care to be furnished, and of any changes in the care to be furnished.

(i) The HHA must advise the patient in advance of the disciplines that will furnish care, and the frequency of visits proposed to be furnished.

(ii) The HHA must advise the patient in advance of any change in the plan of care before the change is made.

These statutory requirements for written notice contain a paperwork burden. Therefore, these requirements are subject to the general information collection guidelines in 5 CFR 1320.6.

2. INFORMATION USERS

Based on CMS statistics for 2010, we estimate the number of HHAs potentially delivering the HHCCN as about 10,914 (calculated from CMS Fast Facts, p. 6, Medicare Institutional Providers Calendar Year 2010).

HHCCNs are not given every time items and services are delivered. Rather, HHCCNs are given only when the HHA becomes aware of a change in a beneficiary’s plan of care (POC) due to doctor/ordering provider orders or HHA specific limitations.

CMS reports 6,897,670 episodes of home health care in 2010 (Source: CMS, Chronic Care Policy Group data). Since the HHCCN will replace HHABN Option Box 2 and

Option Box 3 and based on CMS estimates and industry comments, we believe that HHCCN use associated with each episode of care is as follows:

- HHCCN change of care for agency reasons (HHABN Option Box 2): 4.8 percent of 6,897,670 episodes equals 331,088 HHCCNs issued annually.
- HHCCN change of care due to provider orders (HHABN Option Box 3): 200 percent of 6,897,670 episodes equals 13,795,340 HHCCNs issued annually. We estimate that an average of 2 HHCCNs are issued per 60-day episode of care due to provider orders.

Based on the above estimates, HHAs will deliver about 14,126,428 HHCCNs annually.

$$\begin{array}{rcl} 331,088 \text{ HHCCNs} & + & 13,795,340 \text{ HHCCNs} & = & 14,126,428 \text{ HHCCNs} \\ \text{issued annually} & & \text{issued annually} & & \text{issued annually} \\ \text{for agency reasons} & & \text{for provider orders} & & \end{array}$$

3. IMPROVED INFORMATION TECHNOLOGY

HHCCNs will usually be given as hard copy notices during in-person patient encounters. In some cases, notification may be done by telephone with a follow-up notice mailed or transmitted via secure fax. In person, electronic issuance of the notice is permitted as long as the beneficiary consents to electronic delivery and a copy is provided to the beneficiary. Incorporation of HHCCNs into other automated business processes is permitted, and some limited flexibility in formatting the notice is allowed as discussed in the form instructions. HHAs may choose to store the required signed copy of the HHCCN electronically.

4. DUPLICATION OF SIMILAR INFORMATION

The information we are requesting is unique and does not duplicate any other effort.

5. SMALL BUSINESS

All HHAs will be expected to give the HHCCN in relevant situations. The requirement does not impose any greater burden on small businesses than on large businesses since there is no difference in the information collected.

6. LESS FREQUENT COLLECTION

HHCCNs are given on an as-needed basis as described under 2, above.

7. SPECIAL CIRCUMSTANCES

There are no special circumstances.

8. FEDERAL REGISTER NOTICE/OUTSIDE CONSULTATION

The HHCCN is a new collection. A 60 day *Federal Register* notice published on December 12, 2012. Interested parties will have an opportunity to comment. Public comments will be considered carefully in making any necessary revisions to the notice and accompanying instructions.

9. PAYMENT/GIFT TO RESPONDENT

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

10. CONFIDENTIALITY

According to the applicable definition of confidentiality, this item does not apply.

11. SENSITIVE QUESTIONS

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

12. BURDEN ESTIMATE

As explained in section 2. the number of affected HHAs (“respondents”) is 10,914.

CMS received industry comments in 2006 requesting increased time estimates for HHABN delivery. Based on these comments, delivery of the HHABN with Option Box 1 was estimated to be 18 minutes and those with Option Boxes 2 or 3 was estimated to take 4 minutes each. Since the HHCCN is replacing Option Boxes 2 and 3 of the HHABN, we estimate that it will take 4 minutes (.06664 hours) to complete the HHCCN, for a total annual burden estimate of 941,385 hours (14,126,428 responses x .06664 hours). The annual burden estimate per respondent is 86.3 hours (941,385 hours divided by 10,914 respondents).

We estimate the annual cost of delivering 14,126,428 HHCCNs to be \$27,264,006 (14,126,428 responses x \$1.93 per response). This is based on our expectation that the HHCCN notices will be prepared by a staff person with professional skills at the GS-12-Step 1 hourly salary of \$28.88. See: Office of Personnel Management (OPM) website at: www.opm.gov. Based on this hourly salary, the cost per response is \$1.93 (\$28.88 x .06664 hours). We estimate that each of the 10,914 respondents will deliver approximately 1294 HHCCNs annually for a total annual cost per respondent of \$2,492.34 (86.3 hours x \$28.88).

13. CAPITAL COSTS

Since all affected notifiers are expected to already have the capacity to reproduce HHABNs based on CMS guidance, 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

This is a new collection.

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.