



DATE: July 24, 2013

TO: Howard Shelanski
Administrator, OIRA

FROM: 
Marilyn Tavenner
Administrator

SUBJECT: Request for Emergency Clearance of the Paperwork Reduction Act
Package for Certified Application Counselor Program

Emergency Justification

The Centers for Medicare & Medicaid Services (CMS) is requesting a Paperwork Reduction Act (PRA) package for Certified Application Counselor Program, as finalized in regulations at 45 CFR 155.225, to be processed under the emergency clearance process associated with 5 CFR 1320.13(a)(2)(i). Public harm is reasonably likely to ensue if the normal clearance procedures are followed. The approval of this data collection process is essential to ensuring that organizations seeking to be designated to certify staff or volunteers in Federally-facilitated Marketplaces (including State Partnership Marketplaces) can apply when the application is made publicly available on July 29, 2013. In the absence of this change, the agency would need to delay the posting of the application before collection can begin, as the end of the existing PRA is subject to a 30-day public comment period that will not expire until August 14, 2013, at which time OMB must perform its final review for approval. Without an emergency clearance process, many organizations seeking to participate as certified application counselor host organizations in the Federally-facilitated Marketplace will not be able to get their applications submitted and reviewed in a timely manner.

Successful implementation of the certified application counselor program will depend on the ability of a large number of organizations to apply to be designated to serve as host organizations for certified application counselors. Given the short time remaining until open enrollment begins on October 1, 2013, it is critical that the application for designation be posted by July 29, 2013, to maximize participation in the program. A delay in application collection and review will also preclude interested organizations from participating in program activities such as webinars designed for these organizations that are scheduled prior to August 14, 2013, as well as preparing to have staff members and volunteers trained and certified to become certified application counselors. If CMS is required to delay application collection and review, it will severely impede its ability to implement the certified application counselor program, as required by each Exchange, under 45 CFR 155.225(a), in time for open enrollment beginning October 1, 2013.

Background

The Affordable Care Act creates health insurance Exchanges, new competitive marketplaces where consumers and small businesses can purchase private health insurance. Consumers who access health insurance coverage through Exchanges will be able to receive skilled assistance from certified application counselors who will provide information about applying for coverage in a qualified health plan and insurance affordability programs through an Exchange, assist to apply for coverage in a qualified health plan and insurance affordability programs, and will help to facilitate enrollment in qualified health plans and insurance affordability programs. A robust range of enrollment assistance programs will be critical to helping consumers enroll, particularly during the initial open enrollment period beginning October 1, 2013. The certified application counselor program supplements other consumer assistance programs established under the Affordable Care Act, such as Navigators and non-Navigator Assistance Programs. As further discussed and clarified in the Final Rule, “Patient Protection and Affordable Care Act; Exchange Functions: Standards for Navigators and Non-Navigator Assistance Personnel; Consumer Assistance Tools and Programs of an Exchange and Certified Application Counselors,” (78 FR 42824, July 17, 2013), certified application counselors will play a more limited role relative to other assistance programs, as they will focus on providing skilled application assistance.

In order to implement the certified application counselor program as required under finalized regulations at 45 CFR 155.225, CMS developed a PRA package associated with these provisions through the OMB 3-year approval process. In the January 22, 2013 (78 FR 4594) proposed rule, we requested public comment on the proposed rule’s information collection requirements to begin the 60-day public comment period. The Final Rule (78 FR 42824) and the PRA package were published with an identical publication date of July 17, 2013, which began the 30-day public comment period with respect to the information collection requirements. Under existing timelines, the PRA package cannot be approved by OMB and be issued an OMB control number until after the expiration date of the public comment period on August 14, 2013. As such, we are now seeking OMB approval for a new collection under the Emergency PRA processes.

Requested and Proposed Timeline

July 24, 2013

- Submit PRA package to OSORA

July 25, 2013

- Target display date for the Emergency FR notice
- Start of 3-day public comment period
- PRA package submitted to OMB
- Start of informal OMB review period

July 28, 2013

- End of 3-day public comment period. OMB begins review.

July 29, 2013

- Requested OMB approval date
- Application is posted