

## **Supporting Statement**

*CMS-6045-P: Medicare Program: Changes to the Requirements for the Medicare Incentive Reward Program; Changes to Provider Enrollment Provisions*

### **A. BACKGROUND**

#### **1. Provider Enrollment**

On April 21, 2006, CMS published a final rule that set forth requirements in subpart P of Part 424 that providers and suppliers must meet in order to obtain and maintain Medicare billing privileges. Since its establishment in April 2006, subpart P has been updated several times to address various enrollment issues. CMS-6045-P addresses additional enrollment topics.

#### **2. Incentive Reward Program (IRP)**

Section 203(b)(1) of the Health Insurance Portability and Accountability Act (HIPAA) of 1996 instructed the Secretary to establish a program to encourage individuals to report actual or potential Medicare fraud. Section 203(b)(2) of HIPAA authorized the Secretary to pay a reward to individuals who provide information under this program if the information leads to the recovery of at least \$100. Under section 203(b)(2), the reward must be paid from the amounts collected.

On June 8, 1998, CMS published a final rule that implemented section 203(b) of HIPAA via 42 CFR § 420.405. Per § 420.405(e), the amount of a reward represents what CMS considers to be adequate compensation in the particular case, not to exceed 10 percent of the overpayments recovered in the case or \$1,000, whichever is less. Paragraph (e) also states that CMS makes payments as promptly as the circumstances of the case permit, but not until it has collected all Medicare overpayments, fines and penalties.

#### **3. Information Collection Request (ICR)**

##### **a. Provider Enrollment**

We anticipate that there would be burden changes involving the Form CMS-855 (OMB Approval # 0938-0685) and the number of provider enrollment appeals filed. However, as we state in the “Collection of Information Requirements” section of CMS-6045-P, we are unable to estimate the scope of these changes.

b. IRP

Upon notification of reward eligibility under the IRP, an individual would be required to submit an attestation stating that he or she has or will do all of the following:

- (i) Is not participating and has not participated in the sanctionable conduct.
- (ii) Is not otherwise ineligible to receive a reward under paragraph 420.405(c)(2).
- (iii) Has furnished information that is accurate and truthful to the best of his or her knowledge.
- (iv) Acknowledges that knowingly failing to provide truthful information could subject him or her to potential criminal and civil liability.

We are not creating a separate OMB-approved model attestation form. The individual would submit his or her own attestation with the requested attestation language.

The burden involved, discussed below, would be the time and effort needed to prepare and submit the attestation.

**B. JUSTIFICATION**

1. Need and Legal Basis

Our proposed IRP revisions are designed to encourage use of the IRP. The legal authority for our revisions is section 203(b)(1) of HIPAA.

2. Information Users

CMS and/or its Medicare contractors would use the documents referenced in section (A)(3)(b) above.

3. Use of Information Technology

CMS and/or its contractors would likely record attestation submissions into an electronic system, though the specific system(s) cannot be determined at this time.

4. Duplication of Efforts

This information collection does not duplicate any other effort and the information cannot be obtained from any other source.

5. Small Businesses

As only individuals would be submitting attestations, it is not anticipated that our proposal would impact small businesses.

6. Less Frequent Collection

An individual would typically submit an IRP attestation only once.

7. Special Circumstances

There are no special circumstances associated with this information collection request.

8. Federal Register/Outside Consultation

The notice of proposed rulemaking, CMS-6045-P, was put on display at the *Federal Register* on April 25, 2013 and published on April 29, 2013.

9. Payments/Gifts to Respondents

Not applicable.

10. Confidentiality

CMS and its Medicare contractors will comply with all Federal and State laws – including, but not limited to, the Federal Privacy Act and Freedom of Information Act – that apply to this collection. Privileged or confidential commercial or financial information is protected from public disclosure by Federal law 5 U.S.C. 522(b)(4) and Executive Order 12600.

11. Sensitive Questions

There are no sensitive questions associated with this collection.

12. Burden Estimates (Hours & Wages)

We project that each year, 149 individuals would submit an attestation. The burden would be 5 hours per submission. Using a per-hour wage of \$95, we project an annual ICR cost of \$70,775, as shown in the table below. <sup>1</sup>

Provision	OMB Control No.	Respondents	Responses	Burden per Response (hours)	Total Annual Burden (hours)	Hourly Labor Cost of Reporting (\$)	Total Labor Cost of Reporting (\$)	Total Cost (\$)
420.405	0938-New	149	149	5	745	95	70,775	70,775

13. Estimates of other Total Annual Cost Burden to Respondents or Record Keepers (Capital Costs)

There are no additional record keeping/capital costs.

14. Annualized Cost to the Federal Government

The table below identifies the costs to the Federal government – through CMS, its Medicare contractors, and/or its agents - to process IRP attestations.

Provision	Documents to be Collected and Processed/Tasks to be Performed	Time Needed to Process Document/ Complete Task (hours)	Total Annual Processing/ Task Burden (hours)	Per Hour Cost of Processing/Task Burden (\$) *	Total Cost of Processing/ Task Burden (\$)
420.405(IRP)	149	2	298	20.22	6025.56

\* Per hour cost based on Grade 7/Step 1 salary in Washington, DC area.

15. Changes to Burden

No changes to burden hours.

---

1

In light of the legal nature of most attestations, we believe that these individuals would generally seek to have legal counsel draft the attestation. According to the most recent wage data provided by the BLS for May 2012, the mean hourly wage for the category of “lawyers” is \$62.93 (see <http://www.bls.gov/oes/current/oes231011.htm>). With fringe benefits and overhead, the per-hour rate comes to \$95.

16. Publication/Tabulation Dates

N/A

17. Expiration Date

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

18. Certification Statement

There are no exceptions to item 19 of OMB Form 83-I.