

Supporting Statement Part A  
Medicare Disproportionate Share Adjustment for Hospitals and  
Supporting Regulations in 42 CFR 412.106  
CMS-R-194, OCN 0938-0691

**BACKGROUND**

Section 1886(d)(5)(F) of the Social Security Act established the Medicare disproportionate share adjustment (DSH) for hospitals, which provides additional payment to hospitals that serve a disproportionate share of the indigent patient population. This payment is an add-on to the set amount per case the Centers for Medicare and Medicaid Services (CMS) pays to hospitals under the Medicare Inpatient Prospective Payment System (IPPS).

Under current regulations at 42 CFR 412.106, in order to meet the qualifying criteria for this additional DSH payment, a hospital must prove that a disproportionate percentage of its patients are low income using Supplemental Security Income (SSI) and Medicaid as proxies for this determination. This percentage includes two computations: (1) the “Medicare fraction” or the “SSI ratio” which is the percent of patient days for beneficiaries who are eligible for Medicare Part A and SSI and (2) the “Medicaid fraction” which is the percent of patient days for patients who are eligible for Medicaid but not Medicare. Once a hospital qualifies for this DSH payment, CMS also determines a hospital’s payment adjustment based on these two fractions.

By default, CMS calculates these fractions using a hospital’s data based on the Federal fiscal year (FFY). However, the regulations permit a hospital to request that CMS re-calculate its “Medicare fraction” or “SSI ratio” using data based on its own cost reporting year. If a hospital opts for this re-calculation, it must formally notify CMS, in writing, through its Fiscal Intermediary (FI) or Medicare Administrative Contractor (MAC), of its intent and provide its name, provider number, and cost reporting year end. A hospital may make this request once per cost reporting period as long as the cost report is either open or subject to the three year re-opening period. Once a hospital receives its re-calculation, it is subject to the results regardless of the financial impact.

Upon request, CMS will provide detailed inpatient data that supports the computation of the “Medicare fraction” or “SSI ratio.” Since August 18, 2000, CMS has extracted these data from a system of records entitled Medicare Provider Analysis and Review (“MedPAR”), HHS/HCFA/OIS, 09-07-0009(65 Fed. Reg.50544). MedPAR was established, in part, to recalculate the “SSI ratios” for the DSH adjustment. In order to request the MedPAR data, hospitals must furnish the provider name, provider number, provider’s cost reporting period(s), and contact information for the representative of the provider.

For cost reports prior to those that include December 8, 2004, CMS only released MedPAR data to hospitals with properly pending

appeals relating to the hospital's DSH patient percentage before the Provider Reimbursement Review Board (PRRB). These requests were processed through routine use procedures. Requestors were required to sign a data use agreement (DUA).

For cost reporting years beginning with those that include December 8, 2004, CMS no longer requires that a hospital have a properly pending appeal before the PRRB relating to the hospital's DSH patient percentage in order to request this data. (70 Fed. Reg. 47439). In addition, CMS no longer charges for data. These requests are also processed through routine use procedures and require the requestor to sign a DUA. While the requests for MedPAR data for the cost report years beginning with those including December 8, 2004 are similar to those for prior cost report years, the agency processes them separately because the statute precludes charging for the data.

This PRA submission and supporting statement addresses hospitals' formal requests for recalculation of their DSH patient percentage, their requests for MedPAR data for all years including those cost reporting periods prior to those that include December 8, 2004, those that include December 8, 2004 and all subsequent years. .

## **A. JUSTIFICATION**

### **1. Need and Legal Basis**

Please see Background. Section 1886(d)(5)(F) of the Social Security Act and 42 CFR §412.106. As explained above, 42 CFR §412.106 allows hospitals to request that the Medicare fraction of the DSH adjustment be calculated on a cost reporting basis rather than a federal fiscal year. Once requested, the hospital must accept the result irrespective of whether it increases or decreases their DSH payment. The routine use procedure and the DUA allows hospitals to request the detailed Medicare data so they can make an informed choice before deciding whether to request that the Medicare fraction be calculated on the basis of a cost reporting period rather than a federal fiscal year.

### **2. Information Users**

Hospitals and their consultants may request a recalculation of their Medicare fraction based on a cost reporting period from their local FI or MAC. The FI or MAC will use that information to make the calculation of the Medicare fraction based on the hospital's cost reporting year rather the federal fiscal year. Hospitals (including their representatives) may request detailed MedPAR information from CMS. CMS uses the information provided by hospitals (including their representatives) to fulfill the requests for MedPAR data.

3. Improved Information Technology

At this time, this recalculation request procedure and the data request procedures do not lend themselves to electronic submission. However, a hospital is no longer required to submit a copy of its Medicare Part A data for comparison purposes when it requests a recalculation of its data. Instead, CMS uses its own databases to obtain the information applicable to each hospital's cost reporting period. Therefore, the reporting burden to hospitals has been significantly reduced.

4. Duplication

The information for this PRA package does not duplicate any other effort.

5. Small Business

This collection does not affect small businesses.

6. Less Frequent Collection

Both the request for a recalculation and MedPAR data are voluntary.

7. Special Circumstances

There are no special circumstances.

8. Federal Register Notice/Outside Consultation

The 60-day Federal Register notice published on August 21, 2013 (78 FR 51730). No comments were received.

The Federal Register notice for the original routine use procedure establishing the MedPAR system of records was published on August 18, 2000 (65 Fed. Reg. 50548). CMS published a final rule on Aug.12, 2005 (70 Fed. Reg. 47439) establishing the new process for requesting MedPAR data beginning with cost reports that include December 8, 2004.

9. Payment/Gift to Respondent

There is no payment/gift to respondent.

10. Confidentiality

The MedPAR data is required to be protected under the Privacy Act.

11. Sensitive Questions

There are no questions of a sensitive nature.

12. Burden Estimate (Hours and Wages)

For requests to recalculate hospitals' "Medicare fraction" or "SSI ratio," the estimated total burden is 150 hours as follows:

300 requests x 0.5 hours each = 150 hours

For requests for MedPAR data related to the "Medicare fraction" or SSI ratio regardless of time period the estimated total burden is 250 hours as follows:

500 requests x 0.5 hours each = 250 hours

13. Capital Costs

There are no capital costs.

14. Cost to Federal Government

There are 1.25 FTEs involved in the processing of the recalculation requests based on a provider's cost reporting period. For data requests, there are 3 FTEs who process the MedPAR data.

15. Changes to Burden

There are no program changes or burden adjustments.

16. Publication and Tabulation Dates

The data resulting from the hospital requests is not to be published.

17. Expiration Date

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

18. Certification Statement

There are no exceptions to the certification statement.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

This section does not apply because statistical methods were not employed for

this collection.