

Supporting Statement for
Rehabilitation Unit/Hospital Criteria Worksheet
Forms CMS-437A and CMS-437B
(OMB NO. 0938-0986)

A. BACKGROUND

This supporting statement requests Office of Management and Budget (OMB) approval for the Rehabilitation Hospital/Unit Criteria Worksheet (Forms CMS-437A & CMS-437B). The worksheets represent requirements in current Federal regulations at 42 CFR Parts 412.20 through 412.29 for rehabilitation hospitals and rehabilitation units of hospitals to be exempt from the Inpatient Prospective Payment System (IPPS).

A limited number of hospitals and special hospital units may be excluded from IPPS which determines Medicare payment for operating costs and capital-related costs of inpatient hospital services. Regulations at 42 CFR 412.20 through 412.29 describe the criteria under which these facilities are excluded. Excluded rehabilitation hospitals and rehabilitation units of hospitals are collectively referred to as Inpatient Rehabilitation Facilities (IRFs) and are paid under the prospective payment system (provided for by Section 1886(j) of the Social Security Act). Payment for these facilities is commonly referred to as IRF PPS.

The Forms CMS-437A and CMS-437B are used by hospitals to attest to meeting the IPPS exclusion criteria at 41 CFR 412.20 through 412.29. Rehabilitation hospitals and rehabilitation units of hospitals must attest to this requirement prior to being placed into excluded status. Additionally, these facilities must re-attest to meeting the exclusion criteria once every three years thereafter.

B. JUSTIFICATION

1. Need and Legal Basis

Certain hospitals and hospital units may be excluded from the Inpatient Medicare Prospective Payment System (IPPS) and paid at a different rate. The exclusion of these hospitals and units of hospitals is optional on the part of the provider. However, exclusion from IPPS permits the hospital to be paid at a different payment rate to reflect the cost of providing specialized services. The provision of the Social Security Act for IRFs is located at Section 1886(j).

The criteria for IPPS exclusion are defined in regulation at 42 CFR 412.20 through 412.29. These regulations have provisions that are specific to hospitals and units of hospitals. Exclusion criteria that are specific to IRFs are located at §412.29. These criteria were developed into a worksheet that was used by State Survey Agencies (SAs) and hospitals to assess IRFs for compliance with the requirements. CMS-437A is the worksheet for rehabilitation units and CMS-437B is the worksheet for rehabilitation hospitals.

The CMS originally developed the CMS-437A and CMS-437B as State Survey Agency (SA) worksheets. The SA surveyors would use these worksheets when conducting onsite surveys to verify the IPPS exclusion criteria were met. This was completed prior to placing an IRF into excluded status. The IRF was then required to complete the form annually as a self-attestation indicating the IRF continued to meet the exclusion criteria. The IRF would complete the form and submit it to the CMS Regional Offices through the respective SA. In 2007, CMS suspended the requirement for onsite surveys allowing providers to self-attest to the exclusion criteria for initial exclusion (S&C 08-03). Then, in 2012, CMS changed the frequency of self-attestation from annually to once every three years (S&C 13-04-IRF). The attestation procedures are defined in CMS Pub 100-07 Section 3100.

2. Information Users

The CMS uses the information collected from the CMS -437A/B to ascertain whether IRFs are meeting the exclusion requirements at §412.29.

For first time verification requests for exclusion from IPPS, a hospital/unit must notify the CMS Regional Office (RO), servicing the State in which it is located, that it intends to seek excluded status from the IPPS. Currently, all new IRFs must provide written certification that the inpatient population it intends to serve will meet the requirements of the 60 percent rule for IPPS exclusion criteria for IRFs (42 CFR 412.29(b)(2)). This rule requires that 60 percent of the IRF patient population include specified medical diagnoses that are commonly treated in IRFs. They must also complete the Form CMS-437A if they are a rehabilitation unit or a Form CMS-437B if they are a rehabilitation hospital. This information is submitted to the State Agency no later than 5 months before the date the hospital/unit would become subject to IRF-PPS.

IRFs already excluded from IPPS will self-attest to meeting the IPPS exclusion requirements once every three years by submitting and updated CMS-437A/B, as appropriate. The IRF will be provided a copy of the appropriate CMS-437 Worksheet at least 120 days prior to the beginning of its cost reporting period. Hospital/unit officials complete and sign an

attestation statement and return the appropriate CMS-437A or CMS-437B to the CMS RO through the SA. The Medicare Administrative Contractor (MAC) will continue to verify, on an annual basis, compliance with the 60 percent rule for rehabilitation hospitals and rehabilitation units through a sample of medical records and the SA will verify the medical director requirement. This requirement confirms the IRF has a medical director who is a doctor of Medicine or Osteopathy, is licensed under State law to practice medicine or surgery, and has completed a one-year hospital internship and at least 2 years of training or experience in the medical-management of inpatients requiring rehabilitation services. The SA must transmit the worksheets to the RO at least 60 days prior to the end of the rehabilitation hospital's/unit's cost reporting period. This information will be reviewed by the CMS RO to determine if the IRF continues to meet requirements for exclusion from the IPPS.

SA surveyors will periodically conduct onsite surveys of rehabilitation hospitals or hospitals with a rehabilitation unit as a normal part of their oversight responsibilities. When conducting these surveys, the surveyors will verify the IRF IPPS exclusion requirements by verifying the information on the appropriate Form CMS-437.

3. Use of Information Technology

The appropriate form CMS-437 A or B is either mailed to the facility from the SA or the provider can obtain a copy in PDF format from the CMS website. There are no plans to make an electronic form at this time.

4. Duplication

There is no duplication of information. The information collected is the minimum required under the regulations at 42 CFR 412.20 through 412.29. The information is separate from the Conditions of Participation that are assessed during a routine survey.

5. Small Business

The Small Business Administration defines a hospital as small business if it has less than \$38.5 million in average annual receipts. It is possible that an IRF in a small hospital may meet the definition of a small business.

6. Less Frequent Collection

An IRF must attest to the attestation requirement prior to being placed in excluded status and periodically thereafter. CMS reduced the frequency of collecting this information in 2012 requiring the attestation to be

completed once every three years rather than yearly. The re-verification process is completed to ensure that the exclusion criteria, e.g., personnel, services, number of admissions/discharges, and full-time or part-time director, number of beds, continue to be met. These areas may be subject to frequent change in the hospital environment.

7. Special Circumstances

There are no special circumstances associated with this collection. This collection is consistent with the guidelines in 5 CFR 1320.6.

8. Federal Register and Outside Consultations

The 60-day Federal Register notice published on May 15, 2015. There were no public comments.

9. Payment/Gifts to Respondent

There are no payments or gifts involved in this information collection.

10. Confidentiality

Information collected will be utilized by CMS and its agents for certification and enforcement actions. This information is publicly disclosable. Any identifiable data subject to the Privacy Act is deleted prior to disclosure.

11. Sensitive Questions

There are no questions of a sensitive nature on the form.

12. Estimate of Burden (Hours and Wages)

The universe of these hospitals and units in calendar year 2014 was 1433. The universe is computed as follows:

Rehabilitation Units:	1,176
Rehabilitation Hospitals:	257
Total Hospitals/Units:	1,433
Reporting once every 3 years:	478

Reporting hours is based on a completion time of 15 minutes per form, either by the hospital/unit that is completing the form to self-attest or to make information available to the surveyor.

Hospitals/Units:	478
Hours to complete form:	<u>x 0.25</u>
Burden hours annually:	120 Hours

The form CMS-437 is likely to be completed by a medical or health services manager. Based on the Bureau of Labor Statistics 2014 data, the hourly wage for this occupation is \$31.65 per hour. Therefore, the cost to each facility is \$7.91

Cost to complete form:	\$7.91
Number of facilities annually:	<u>x 478</u>
Total cost annually:	\$3,781

13. Capital Cost of Burden

There are no capital costs associated with this collection.

14. Federal Cost Estimates

The CMS Form-437A/B is reviewed by the equivalent of a government compliance officer with an average hourly wage of \$32.69 based on the 2014 Bureau of Labor Statistics wage data. The average time to review, process, and file the form is approximately 20 minutes. The cost per form is \$10.89. Processing 478 forms per year costs the federal government \$5209.

15. Program/Burden Changes

The population of IRFs completing this form has increased slightly since the last reporting from 1164 to 1433, an increase of 269.

However, we implemented a policy change in 2012 requiring IRFs to complete the form once every three years versus the previous collection of annually. In implementing this change, State Survey agencies have been instructed to collect the attestation from one third of IRFs in their State annually.

Therefore, the number of IRFs submitting the form annually is 478 which is a decrease of 686 from the previous annual collection of 1,164. The annual hourly burden rate has subsequently decreased from 291 to 120, a total reduction of 171 hours annually.

Previous PRA applications have not included a monetary cost burden to IRFs for completing this form. This may be due to the previous period when SAs completed the form during annual onsite surveys and costs were only attributed to the federal government. The reporting process has

changed over the years and the form is now completed by IRFs for initial exemption and once every three years. The reporting costs should be attributed to IRFs for this purpose. We estimate the cost per facility to be \$7.91. This amount creates an annual burden cost of \$3,781.

16. Publication and Tabulation Dates

There are no publication and tabulation dates with this collection.

17. Expiration Date

CMS would like to display the expiration date.

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.