

Supporting Statement for Paperwork Reduction Act Submission
Appointment of Representative and Supporting Regulations in 42 CFR 405.910
CMS-1696 (OMB 0938-0950)

Background

This iteration requests an extension of an information collection associated with regulations that permit individuals or entities to appoint representatives to exercise their rights to appeal an initial determination. We are proposing several nonsubstantive changes that have no impact on our burden estimates. However, we are adjusting our total burden estimate based on more recent annual response data. Our currently approved per response estimates are unchanged.

A. Justification

1. Need and Legal Basis

The authority for collecting this information is under 42 CFR 405.910(a) of the Medicare claims appeal procedures.

An appointment of representative must:

- be in writing;
- be signed and dated by both the party and individual agreeing to be the representative;
- provide a statement appointing the representative to act on behalf of the party, and in the case of a beneficiary, authorize the adjudicator to release personally identifiable health information;
- include a written explanation of the purpose and scope of the representation;
- contain the party's and appointed representative's name, phone number, and address;
- provide the beneficiary's Medicare health insurance claim number, if applicable. When the represented party is not a beneficiary, a unique identifier (such as the National Provider Identifier or plan number) is requested);
- include the appointed representative's professional status or relationship to the party; and
- be filed with the entity processing the party's initial determination or appeal.

2. Information Users

This form would be completed by beneficiaries, providers and suppliers, and any party who wish to appoint a representative to assist them with their initial determinations and filing appeals.

3. Use of Information Technology

There is no provision for alternative uses of information technology.

To comply with the Government Paperwork Elimination Act (GPEA), you must also include the following information in this section:

-Is this collection currently available for completion electronically? No

-Does this collection require a signature from the respondent(s)? Yes

-If CMS had the capability of accepting electronic signature(s), could this collection be made available electronically? No, currently, many Medicare contractors and health plans do not have the ability to receive forms electronically. Because the form requires the signature of the respondent and the respondent's prospective representative, this form currently cannot be made available for electronic submission.

-If this collection isn't currently electronic but will be made electronic in the future, please give a date (month & year) as to when this will be available electronically and explain why it can't be done sooner. Not applicable.

-If this collection cannot be made electronic or if it isn't cost beneficial to make it electronic, please explain. This collection requires a signature from both the respondent and the respondent's prospective representative and therefore cannot currently be made electronic.

4. Duplication of Efforts

The CMS-1696 does not duplicate any existing information collection.

5. Small Businesses

This collection does not have a significant economic impact on a substantial number of small entities.

6. Less Frequent Collection

This form is submitted on an as needed basis, therefore we cannot conduct this collection less frequently.

7. Special Circumstances

This information collection is in accordance with the guidelines in 5 CFR 1320.6.

8. Federal Register/Outside Consultation

The 60-day notice published in the Federal Register on December 26, 2017 (82 FR 61002). We did not receive any comments.

The 30-day notice published in the Federal Register on March 14, 2018 (83 FR 11207). We did

not receive any comments.

9. Payments/Gifts to Respondents

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

10. Confidentiality

Beneficiaries who choose to appoint a representative are required by regulation (42 CFR 405.910(c)(5)) to provide their Medicare Health Insurance Claim Number on the AOR form. Contractors collect and maintain this information for CMS under the provisions of the Privacy Act.

11. Sensitive Questions

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

12. Burden Estimates (Hours & Wages)

We must estimate the burden for the Appointment of Representative (AOR) form because we do not maintain data on the use of appointed representatives. Therefore, our estimates are derived from anecdotal information.

Our estimates are limited to beneficiary appeals involving appointed representatives. Providers and suppliers rarely invoke the use of appointed representatives, and when they do, it is most often during the higher levels of the appeals process. Providers and suppliers are required to submit requests for initial determinations electronically, often employing a billing service to handle the accounts. Therefore, we believe that providers and suppliers are likely to use the AOR form for initial determinations in limited circumstances.

We believe that when parties appoint representatives, they generally do so at the start of the appeals process. For FY 2016, 3,472,840 requests for first level appeals were received (this figure is obtained from the CROWD [Contractor Reporting of Operational & Workload Data] system used by contractors to report workload statistics to CMS). We estimate that in 10% of all (347,284) appellants will appoint a representative.

Since we have developed the optional standardized form, we estimate that it should take approximately 15 minutes to supply the information needed to comply with the requirements for a valid Appointment of Representative.

Wage Estimates

To derive average costs, we used data from the U.S. Bureau of Labor Statistics' May 2017 National Occupational Employment and Wage Estimates for all salary estimates (www.bls.gov/oes/current/oes_nat.htm).

Providers/Suppliers The following table presents the mean hourly wage, the cost of fringe benefits and overhead, and the adjusted hourly wage.

Estimated Hourly Wages				
Occupation Title	Occupation Code	Mean Hourly Wage (\$/hr)	Fringe Benefits and Overhead (\$/hr)	Adjusted Hourly Wage (\$/hr)
Billing and Posting Clerks	43-3021	18.49	18.49	36.98

Except where noted, we are adjusting our employee hourly wage estimates by a factor of 100 percent. This is necessarily a rough adjustment, both because fringe benefits and overhead costs vary significantly from employer to employer, and because methods of estimating these costs vary widely from study to study. Nonetheless, there is no practical alternative and we believe that doubling the hourly wage to estimate total cost is a reasonably accurate estimation method.

Individuals We believe that the burden will be addressed under All Occupations (occupation code 00-0000) at \$24.34/hr since the group of individual respondents varies widely from working and nonworking individuals and by respondent age, location, years of employment, and educational attainment, etc.

Unlike our private sector adjustment to the respondent hourly wage (see above), we are not adjusting this figure for fringe benefits and overhead since the individuals' activities would occur outside the scope of their employment.

Requirements/Burden Estimates

Providers/Suppliers

We estimate that 90% of all AOR forms will be completed by providers or suppliers. As noted previously, providers and suppliers are likely to use a billing service to file claims and appeals. We estimate 312,556 AORs (347,284 x 0.90) completed by providers or suppliers annually.

In aggregate we estimate a burden of 78,139 hours (312,556 providers or suppliers x 0.25 hr) at a cost of \$2,889,580.22 (78,139 hr x \$36.98/hr).

Beneficiaries

The remaining 10% of the AOR forms filled out would be completed by beneficiaries. We estimate that 34,728 AORs (347,284 x 0.10) will be completed by beneficiaries annually.

In aggregate we estimate a burden of 8,682 hours (34,728 beneficiaries x 0.25 hr) at a cost of \$211,319.88 (8,682 hr x \$24.34/hr).

Burden Summary

Respondent Type	Respondents	Responses	Time per Response (hr)	Total Time (hr)	Labor Rate (\$/hr)	Total Cost (\$)
Providers/Suppliers	347,284	312,556	0.25	78,139	36.98	2,889,580
Beneficiaries	347,284	34,728	0.25	8,682	24.34	211,320
TOTAL	347,284	347,284	0.25	86,821	varies	3,100,900

Collection of Information Instruments and Instruction/Guidance Documents

- Appointment of Representative (English)

Revised with nonsubstantive changes.

- Appointment of Representative (Spanish)

In an effort to make the best use of limited translation resources, the revised Spanish version is not included in this package but will be added as a nonsubstantive change after OMB approval.

13. Capital Costs

There are no capital costs associated with this collection.

14. Cost to Federal Government

There is no cost to the Federal Government for this collection.

15. Changes to Burden

The AOR form proposes several nonsubstantive changes (see the attached Crosswalk for details). The changes have no impact on our burden estimates.

The burden is computed based on relevant available data for Medicare appeals, and those figures are updated annually. Current appeals data indicates that the number of first level appeals has decreased since 2013. While the total time to complete the form has not changed, the hourly burden estimates have decreased and is being adjusted in this iteration for all respondents due to a fewer number of appeals being filed. Overall, the number of appeals has decreased by minus 60,112 which translates to a decrease of minus 15,028 hours.

16. Publication/Tabulation Dates

The standardized form 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.

B. Collection of Information Employing Statistical Methods

The use of statistical methods does not apply for purposes of this form.