

Supporting Statement for Paperwork Reduction Act Submissions  
Annual Report on Home and Community Based Services Waivers and Supporting Regulations in  
42 CFR 440.180 and 441.300-310  
CMS 372(S), OMB 0938-0272

**Background**

The Center for Medicaid and CHIP Services (CMCS) within CMS, is requesting renewal of the Executive Office of Management and Budget approval of the Form CMS-372(S) Annual Report on Home and Community-Based Services Waivers (HCBSWs). This annual waiver information is needed so that CMS may verify that state assurances regarding waiver cost-neutrality are met; to determine the impact of the waivers on the type, amount, and cost of services provided under the State plan, and on the recipients' health and welfare; and to assess the waiver programs on waiver specific and overall bases.

Changes have been made to the Form CMS-372(S) Annual Report that further align the entry and display of home and community-based service names with how they are displayed in the approved waiver. Furthermore, burden in this package has been reduced because states have been working to combine home and community-based waivers resulting in a lower number of 372(S) Annual Reports.

**A. Justification**

1. Need and Legal Basis

The information submitted via the CMS-372(S) provides evidence of the waiver's cost-neutrality and waiver assurances on an ongoing basis. The total cost of waiver services for the waiver year is divided by the unduplicated recipient number (factor C) to determine the average per capita cost for waiver services, which gives us factor D. Additionally, the sum of the total expenditures for all other Medicaid services provided to waiver recipients is divided by number of unduplicated recipients receiving State plan services while in the waiver to give us factor D'. Factors D and D' are required for the following cost-neutrality calculation:  $D + D' \leq \text{Institutional Costs} = \text{Cost-neutrality}$ .

A separate Form CMS 372(S) is required for each new waiver approved after August 23, 1997, and each renewed waiver after August 23, 1999 for each year of the waiver period. The report will be submitted to CMS through the online 372 reporting tool at <https://wms-mmdl.cdsfdc.com/WMS/faces/portal.jsp>. The reports are reviewed and analyzed by the Regional Offices in conjunction with other program reports and state data to evaluate the reasonableness and acceptability of the waiver data.

Once it is determined that the report is acceptable, a comparison of the actual formula values to the most recent CMS approved estimated values is performed to evaluate the waiver's cost-neutrality. The result of this comparison is used by CMS in determining the final disposition of waiver amendments and extension requests.

2. Information Users

The report will be used by CMS to compare actual data to the approved waiver estimates and, in conjunction with the waiver compliance review reports, the information provided will be

compared to that in the MSIS (CMS-R-284, OMB number 0938-0345) report and FFP claimed on a state's Quarterly Expenditure Report (Form CMS-64, OMB number 0938-1265), to determine whether to continue the state's home and community-based services waiver. States' estimates of cost and utilization for renewal purposes are based upon the data compiled in the CMS Form 372(S) reports.

### 3. Use of Information Technology

States report information concerning the numbers of Medicaid beneficiaries receiving waiver services, the type of services provided and the costs of those services. The information is usually taken from State Medicaid agency data processing systems. This data is summarized and may be submitted to CMS through the 372 web-based form.

The availability of the online 372 form has reduced the burden on the states and the federal government significantly.

### 4. Duplication of Efforts

The data captured on the Form CMS 372(S) are not duplicated through any other public information collection. The form CMS-64 (OMB Number 0938-1265) cannot be used in lieu of the Form CMS-372(S). The CMS-64 is the financial report which the states submit quarterly to request claims for FFP.

### 5. Small Businesses

This collection of information does not involve small businesses or other small entities. Rather, information is collected from Medicaid State agencies.

### 6. Less Frequent Collection

Section 1915(c)(2)(E) of the Social Security Act requires the state to provide to the Secretary annually, consistent with a data collection designed by the Secretary, information on the impact of the waiver granted under this subsection on the type and amount of medical assistance provided under the State plan and on the health and welfare of recipients.

The CMS determined that there had previously been redundancy in our data reporting requirements. As a result, instead of requiring an "initial" and a "lag" (i.e., revised) report for each reporting period, CMS has determined that the "lag" report contains all necessary information, eliminating the requirement for the initial report submission.

### 7. Special Circumstances

There are no special circumstances that would require an information collection to be conducted in a manner that requires respondents to:

- Report information to the agency more often than quarterly;
- Prepare a written response to a collection of information in fewer than 30 days after receipt of it;
- Submit more than an original and two copies of any document;
- Retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;
- Collect data in connection with a statistical survey that is not designed to produce valid

- and reliable results that can be generalized to the universe of study;
- Use a statistical data classification that has not been reviewed and approved by OMB;
- Include a pledge of confidentiality that is not supported by authority established in statute or regulation that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
- Submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

8. Federal Register/Outside Consultation

The 60-day notice published in the Federal Register on March 15, 2018 (83 FR 11538). No comments were received.

9. Payments/Gifts to Respondents

No payments or gifts will be given to respondents.

10. Confidentiality

No assurances of confidentiality have been provided.

11. Sensitive Questions

There are no sensitive questions associated with this collection. Specifically, the collection does not solicit questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

12. Burden Estimates (Hours & Wages)

*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 ([http://www.bls.gov/oes/current/oes\\_nat.htm](http://www.bls.gov/oes/current/oes_nat.htm)). In this regard, the following table presents the mean hourly wage, the cost of fringe benefits and overhead (calculated at 100 percent of salary), and the adjusted hourly wage.

**State Wage Estimates Table 1**

Occupation Title	Occupation Code	Mean Hourly Wage (\$/hr)	Fringe Benefits and Overhead (\$/hr)	Adjusted Hourly Wage (\$/hr)
Business Operations Specialist	13-1000	35.14	35.14	70.28

As indicated, 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.

### *Burden Estimates*

Currently, 47 states and the District of Columbia are required to submit the Form 372(S) on an annual basis. A separate form is required for each of the 282 approved waivers currently in operation. CMS estimates a burden of 43 hours at \$70.28/hr for a Business Operations Specialist to complete each Form 372(s) submission. The total 43 hour burden is comprised of 25 hours of record keeping, collection and maintenance of data, and 18 hours of record assembly, programming, and completing the Form 372(S) in the required format.

In aggregate, CMS estimates an annual burden of 12,126 hours (282 waivers x 43 hours) at a cost of \$852,215.28 (12,126 hours x \$70.28/hr).

### *Information Collection Instruments and Instruction/Guidance Documents*

- CMS-372(S) Annual Report on Home and Community-Based Services Waivers (HCBSWs)

The sections of the form and how these relate to the previously specified regulatory formula factors on the Form CMS-372(S) are as follows:

The Form CMS-372(S) Summary Section specifies the waiver year for which the state is submitting cost neutrality data.

- a. The CMS 372(S) Data Section specifies the annual number of section 1915 (c) waiver recipients reported for each home and community-based service specified in the approved waiver and provided during the waiver period.
- b. The CMS 372(S) Data Section provides the actual total expenditure values for each service that comprises the regulatory equation's factor D. Although the factor is computed and stated as the average per capita expenditure for waiver services, factor D is only reported in this section.
- c. The CMS 372(S) Data Section provides actual annual average per capita expenditures for all other services provided to individuals under the waiver program including home health and expanded EPSDT services otherwise provided under the State plan.
- d. The CMS 372(S) Data Section provides the 1915(c) waiver cost-neutrality formula used to compute the average per capita expenditures with and without the waiver using factors D and D' from the Form CMS-372(S) report and factors G and G' from the approved waiver estimates.
- e. The CMS 372(S) Quality Section does not specifically relate to the formula factor values. This information is required to evaluate the impact of the waiver program, to ensure that the states' assurances are met, and that necessary safeguards are in place and monitored to protect the health and welfare of waiver recipients.

### 13. Capital Costs

There are no capital costs associated with this collection of information.

### 14. Cost to Federal Government

The CMS Regional Offices are responsible for performing the review of the Form 372(S). CMS

estimates a burden of 13 hours for a GS-12, Step 4 analyst at \$42.31/hr to complete each Form 372(S) review. The 13 hour burden is comprised of reviewing the annual Form 372(S) and additional follow-up actions when the report is incomplete or demonstrates a lack of cost neutrality.

The GS-12, Step 4 was determined to be an average grade based on the variety of staff performing Form 372(S) reviews across the ten Regional Offices. Since nearly all states in all Regional Office jurisdictions operate HCBS waivers, the \$42.31/hr wage was determined by averaging basic pay rates for a GS-12, Step 4 analyst across the ten localities of CMS' Regional Offices as follows:

**Federal Wage Estimates Table 1**

Regional Office location	GS 12-4 hourly basic pay based on locality (\$/hr)
Boston	42.73
New York	44.29
Philadelphia	41.76
Atlanta	40.62
Chicago	42.73
Dallas	41.37
Kansas City	38.92
Denver	42.06
San Francisco	46.69
Seattle	41.94
TOTAL	423.11
Average hourly rate	\$42.31

The 2018 General Schedule (GS) Locality Pay Tables published by the Office of Personnel Management were used to obtain the hourly basic pay based on locality, see <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2018/general-schedule/>. When accounting for fringe benefits, the hourly wage is adjusted by 100% to \$ 84.62/hr. As such, the cost to the federal government is estimated to be \$310,216.92 (\$84.62 x 13 hours x 282 waivers).

15. Changes to Burden

We estimate that the number of respondents had decreased by 1 (48 to 47) in addition to the number of responses decreasing by 33 (315 to 282). The response decrease can largely be attributed to a regulatory provision (42 CFR 441.301(b)(6)) effective March 17, 2014, that allows

states to combine target groups within one waiver. Previously states were required to develop separate home and community based waivers to serve more than one target group. Under the regulation, states have combined target groups into one waiver and gained administrative efficiencies.

The ability to combine target populations within one waiver does not change the cost neutrality or quality assurance requirements. Therefore, no substantive changes have been made to the CMS 372(S) form that collects this data. Although, non-substantive changes have been made to further align the entry and display of service names with how they are displayed in the approved waiver. Changes can be found in the attached crosswalk.

16. Publication/Tabulation Dates

This collection of information is not intended for publication.

17. Expiration Date

There are no exceptions to the expiration date.

18. Certification Statement

There are no exceptions to the certification statement.

**B. Collections of Information Employing Statistical Methods**

This collection of information does not employ statistical methods.