

CMS Response to Public Comments for CMS-10718, OMB 0938-New

The Centers for Medicare and Medicaid Services (CMS) received comments on the Model Medicare Advantage and Medicare Prescription Drug Plan Individual Enrollment Request Form (CMS–10718, OMB 0938-New), as outlined by the *Federal Register* notice dated March 6, 2020 from Medicare Advantage (MA) and Prescription Drug Plan (PDP) Organizations. This is the reconciliation of the comments.

Comment: Two commenters requested that CMS clarify if plans will be allowed to include questions needed to identify the enrollment period available to the member from Exhibit 1a “Attestation of Eligibility for an Enrollment Period”, on the model enrollment form.

Another commenter requested that CMS consider adding additional questions to help identify other Special Enrollment Period (SEP) reasons not currently listed.

Response: Exhibit 1a, located in sub-regulatory guidance, remains a viable option to include on or with the enrollment form to help plan sponsors determine if an individual is eligible for an election period and to timely process the enrollment request. CMS will continue to make updates, as needed, to incorporate the most commonly selected SEPs; however, the enrollee can contact the plan if the SEPs listed do not apply.

Comment: Several commenters expressed concerns about the omission of the premium payment selections or bank account information. One commenter asked CMS to clarify how plans will obtain this information from a beneficiary. The commenter also asked if CMS would consider adding explanatory language to educate applicants about premium payment deductions from Social Security and Railroad Retirement Payments, similar to information in the Social Security Handbook.

One commenter recommended CMS align this section with the “Paying Your Plan Premiums” section found in the current model enrollment form in addition to proposing language for clarity. Another commenter requested the ‘Paying your plan premiums’ data field not be optional.

Response: We appreciate the comments. As stated in the Supporting Statement, the “shortened” enrollment form limits data collection to what is lawfully required to process the enrollment. The optional data fields can include information, specific to the plan’s business needs that will reduce overall burden and allow for timely processing of an enrollment request. This may include options for beneficiary premium payment or other information determined by the sponsor. Plans have the ability to submit the enrollment from through the required Marketing review process to change the content, language and/or format to include and expound on information such as the premium payment selections.

Comment: One commenter proposed that, on an annual basis, CMS release the final Enrollment Guidance in April of the preceding plan year to take into account the technology and process updates necessary to make the changes outlined in the Enrollment Guidance. The commenter also noted that the steady increase in Medicare Advantage (MA) membership has led to an increase in the number of materials to develop which strains production timelines. The commenter recommended earlier release dates, as well as increased communication from CMS on release timelines and status updates if guidance or models will be late.

Response: CMS appreciates the suggestion and concern expressed by the commenter, and agrees that plans should be given adequate time to implement system updates. We plan to release the new model MA and Part D enrollment form by or before June 2020, which we believe will afford plans adequate time to make the changes necessary prior to the Annual Enrollment Period for enrollments effective January 1.

Comment: We received a comment requesting that CMS include language on the cover page of the enrollment form that references the ‘sections’ that are optional and/or required to complete, rather than the pages to ensure the form is user-friendly. The commenter noted that, as an example, depending on the amount of information each plan includes, the required fields intended to be included on page 1 (as indicated in the Note on the cover page) could extend into the following page. The optional questions envisioned to be on page 2 could then extend to page 3.

Response: We agree and have updated the Note added on the Cover page informing the member that all items in Section 1 must be completed to process the enrollment while the items in Section 2 are optional and coverage can’t be denied if not completed.

Comment: One commenter suggested we don’t bold or capitalize the following sentence in the disclaimer, “Without authorization, neither Medicare nor <Plan Name> will pay for the services.” The commenter stated that this information is no more important than the other text. The commenter further state that people read the statement to mean that all services need prior authorization, which is not the case.

Another commenter recommends we rephrase the statement above to make it clearer for the beneficiary.

Response: We appreciate the comments and made suggested changes.

Comment: One commenter recommends that CMS continue to allow MA plans and Part D sponsors to retain the ability to file Non-Model Enrollment Application Forms.

Response: CMS appreciates the comments and agrees with allowing plans the flexibility to include plan specific information. Under federal law, the enrollment form is considered a “model” for purposes of CMS marketing review and approval; therefore, MA and Part D plans are able to modify the language, content, format, or order of the enrollment form as noted in the Medicare Communications and Marketing Guidelines (MCMG).

Comment: We received a comment that referenced section 100.4 of the Medicare Communications and Marketing Guidelines (MCMGs) which describes the enrollment form as a “Communication” material, which generally does not require CMS review or submission. The commenter noted that enrollment form submissions are required by statute (HPMS submission code 1070 or 1072). In addition, the commenter acknowledged that Section 1851 of Title XVIII requires that enrollment applications be submitted to CMS for approval at least 45 days before their intended use. The commenter recommended that CMS pursue updates to the statute and the enrollment form submission guidance to align with other Communication materials that require an ‘informational’ submission, such as the Evidence of Coverage. The commenter further states that this will assist MA plans and Part D sponsors in ensuring that beneficiaries have timely access to required enrollment mechanisms during the AEP.

Response: Thank you for the comment. Under Section 1851(h), CMS has the statutory authority to collect and review enrollment applications at least 45 days before the intended use. Any change to the statute would require congressional action.

Comment: A few commenters suggested that several of the data fields CMS listed as ‘Optional’ be changed and classified as ‘Required’. The commenters referenced data fields such as: county, primary care physician (PCP), paying plan premiums. One commenter added that not requiring such fields place an undue burden on plans if it isn’t collected at the time of the enrollment.

Another commenter recommends where we ask the enrollee to [list the PCP, clinic, or health center] to add follow-up questions to request the PCP identification number and whether the beneficiary is a current patient. Another commenter recommends adding phone number to the primary care physician section/field.

Response: We appreciate the request for requiring several additional data fields to alleviate plan burden. At this time, we will only require fields required under federal law to process the individual’s enrollment; however, we will take these suggestions into consideration for a future update to our model MA and Part D enrollment form.