

Supporting Statement A  
Medicare-Funded GME Residency Positions in accordance with Section 126 of  
the Consolidated Appropriations Act, 2021 (Public Law 116-260)  
(CMS-10790; OMB-New)

A. BACKGROUND

Section 1886(h) of the Act, as added by section 9202 of the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 (Pub. L. 99-272) and implemented in regulations at existing §§413.75 through 413.83, establishes a methodology for determining payments to hospitals for the direct costs of approved graduate medical education (GME) programs. Section 1886(h)(2) of the Act, as added by COBRA, sets forth a methodology for determining a hospital-specific, base-period per resident amount (PRA) that is calculated by dividing a hospital's allowable direct costs of GME in a base period by its number of full-time equivalent (FTE) residents in the base period. The base period is, for most hospitals, the hospital's cost reporting period beginning in FY 1984 (that is, October 1, 1983, through September 30, 1984). In general, Medicare direct GME payments are calculated by multiplying the hospital's updated PRA by the weighted number of FTE residents working in all areas of the hospital complex (and at nonprovider sites, when applicable), and the hospital's Medicare share of total inpatient days. Section 1886(d)(5)(B) of the Act provides for a payment adjustment known as the indirect medical education (IME) adjustment under the inpatient prospective payment system (IPPS) for hospitals that have residents in an approved GME program, in order to account for the higher indirect patient care costs of teaching hospitals relative to nonteaching hospitals. The regulation regarding the calculation of this additional payment is located at §412.105. The hospital's IME adjustment applied to the Diagnosis-Related Group (DRG) payments is calculated based on the ratio of the hospital's number of FTE residents training in either the inpatient or outpatient departments of the IPPS hospital to the number of inpatient hospital beds.

Section 1886(h)(4)(F) of the Act established limits on the number of allopathic and osteopathic residents that hospitals may count for purposes of calculating direct GME payments. For most hospitals, the limits were the number of allopathic and osteopathic FTE residents training in the hospital's most recent cost reporting period ending on or before December 31, 1996. Under section 1886(d)(5)(B)(v) of the Act, a similar limit based on the FTE count for IME during that cost reporting period is applied effective for discharges occurring on or after October 1, 1997.

We are seeking approval for a new collection for GME applications for additional residency positions over the limits submitted in accordance with section 126 of the Consolidated Appropriations Act (CAA), 2021.

B. JUSTIFICATION

1. Need and Legal Basis

This collection is associated with a final rule with comment period (CMS-1752-FC3;

December 17, 2021), which finalized CMS' proposals to implement the provisions of Section 126 of the Consolidated Appropriations Act (CAA), 2021 (Public Law 116-260), enacted December 27, 2020, a key provision affecting Medicare payments for Graduate Medical Education (GME).

Section 126(a) of the CAA amended section 1886(h) of the Act by adding a new section 1886(h)(9) requiring the distribution of additional residency positions (slots) to qualifying hospitals. Section 1886(h)(9)(A) makes an additional 1,000 Medicare funded residency slots available to be phased in beginning in FY 2023 until the aggregate number of 1,000 full-time equivalent residency positions are distributed. Section 1886(h)(9)(A) also limits the aggregate number of residency positions made available in a single fiscal year across all hospitals to not exceed 200. Section 1886(h)(9)(B) of the law requires that at least 10 percent of the aggregate number of slots be distributed to hospitals in four categories: (1) hospitals in rural areas (or treated as being located in a rural area under the law), (2) hospitals currently operating over their GME cap, (3) hospitals in states with new medical schools or additional locations, and (4) hospitals that serve areas designated as health professional shortage areas. Additionally, section 1886(h)(9)(C) places certain limitations on the distribution of the residency positions.

Section 126 of the CAA also specifies, under section 1886(h)(9)(A) of the Act, that beginning fiscal year 2023, for each qualifying hospital that submits a timely application, the Secretary is required to notify hospitals of the number of positions distributed to them by January 31 of the fiscal year of the increase, and the increase is effective beginning July 1 of that fiscal year.

## 2. Information Users

The information is submitted by eligible teaching hospitals. In general, to be eligible for Medicare GME payments, a teaching hospital must have an approved, accredited residency program in allopathic medicine, osteopathy, dentistry, or podiatry. CMS staff will determine the validity of the hospitals' requests for additional Medicare funded residency slots requested in accordance with section 126 of the Consolidated Appropriations Act, 2021 (Public Law 116-260) as detailed above in the Need and Legal Basis section of this document.

## 3. Use of Information Technology

CMS worked with a contractor to build a new application module in a system called the Medicare Electronic Application Request Information System™ (MEARIS™). MEARIS™ is a secure web-based platform that receives and processes applications specific to Medicare payment and coding. Users will select or type in a designated URL on their web browser and sign in with a unique user name and password. CMS will collect section 126 GME applications in this system beginning in January, 2022. The application deadline for FY 2023 is March 31, 2022, as discussed in the FY 2022 IPPS final rule with comment period (CMS-1752-FC3).

The information collected in the section 126 GME application is based on the requirements in Section 126 of the Consolidated Appropriations Act, 2021 (Public Law 116-260) and is

provided in APPENDIX A. These collection information/questions are subject to change/revision when final policies are adopted after consideration of public comments in future iterations of the FY IPPS final rule. We will update the collection questions, as necessary, as soon as possible after the rule is finalized.

Electronic filing eliminates the burden of hard copy reporting and reduces the amount of paperwork that hospitals would otherwise submit.

#### 4. Duplication

This information collection does not duplicate any other effort and the information cannot be obtained from any other source.

#### 5. Small Business

This information collection does not affect small businesses.

#### 6. Less Frequent Collection

CMS is required by law to phase in the 1,000 section 126 GME slots over a 5-year period beginning in FY 2023. Two hundred (200) slots per year will be implemented during each year (called Rounds) of a 5-year phase-in. Eligible teaching hospitals interested in applying for the slots during any or all years of the 5-year phase-in period must submit separate applications for each round in accordance with the application deadlines published annually by CMS. Should a provider choose to submit an application for a section 126 Medicare funded residency slot available in Round 1, this application would be submitted by March 31, 2022 to permit CMS adequate time to review the applications, award the slots and notify the recipients by the statutory January 31, 2023 deadline. Once awarded, the GME slots will become effective on July 1<sup>st</sup> of each year of the implementation. Failure to collect this information would make it impossible to implement section 126 according to the statutory requirements and hospitals would be unable to expand the number of residents that will serve at-risk Medicare beneficiaries in areas most in need.

#### 7. Special Circumstances

This information collection is optional and 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 Notice/Outside Consultation

The 60-day Federal Register Notice was published on 10/22/2021 (86 FR 58664). No comments were received.

The 30-day Federal Register Notice was published on 1/11/2022 (87 FR 1414).

#### 9. Payment/Gift to Respondent

Eligible hospitals submit applications for section 126 GME slots in order to potentially receive Medicare funded residency slots. No payments or gifts are provided to the hospitals for submitting applications.

#### 10. Confidentiality

We are not pledging privacy or confidentiality. The data collected is not required to be protected under the Privacy Act as there are no records containing personal identifying information on specific individuals submitted in this collection.

#### 11. Sensitive Questions

There are no sensitive questions associated with this collection.

#### 12. Burden Estimate (Hours) & (Wages)

##### Section 126 of the Consolidated Appropriations Act, 2021 (Public Law 116-260)

PL 116-260 specifies the application process for section 126 GME applications. For this new collection request, the total burden is the estimated time and effort that would be required for eligible hospitals to gather appropriate documentation, prepare and submit an application. We estimate receiving 1,325 applications. This estimate is based on the fact that there are 1,325 hospitals that currently receive GME payments and we estimate receiving one (1) application annually from each of the 1,325 hospitals for each round. Further, we estimate that it will take each hospital approximately 8 hours to complete and submit an application. The time estimate for preparation of this application is based upon

the professional judgment of staff members at the Centers for Medicare and Medicaid Services. We have calculated the hours as follows:

1,325 applications x 8 hour each = 10,600 hours

The cost to applicant hospitals should be minimal due to CMS's efforts to design the process so that hospital staff could understand and complete an application in a short period of time. When computed, assuming a 90% wage estimate at current salary of \$39.55 per hour (based on data from the Bureau of Labor and Statistics website at <https://www.bls.gov/oes/current/oes436012.htm> for the position of Legal Secretaries and Administrative Assistants), plus 100 percent for fringe benefits (( $\$39.55 \text{ per hour} \times 8 \text{ hour per hospital} \times 2$ ), the estimated cost of burden for this collection period is \$632.80 per hospital.

The total estimated burden of \$838,460 is broken out as follows.

□□1,325 applications annually x 8 hour each = 10,600 hours annually

□□ $\$39.55.00/\text{hr} \times 2$  (fringe benefits) X 10,600 hours = \$838,460.

### 13. Capital Costs

There are no capital costs. Other than the costs above, we do not expect hospitals to purchase any additional software or systems as this collection of information is available from a payroll system and software that the hospital has purchased for purposes other than this collection.

### 14. Cost to Federal Government

CMS will receive the section 126 GME applications electronically. We estimate receiving 1,325 applications per round because there are approximately 1,325 approved Medicare teaching hospitals. We also estimate that it will take 8 hours for CMS staff to process each application. This time estimate is based on the professional judgment of staff members at the Centers for Medicare and Medicaid Services.

Using the 2021 Federal Pay Scale, we estimated staff at the GS 11, 12 and 13 levels (step 5) to process the applications.

( <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2021/generalschedule/>)

The estimated cost to the Federal Government is \$1,011,664 and is based on the following assumptions:

- 1,325 applications annually x 8 hour each= 10,600 hours annually
- $\$47.72/\text{hr}$  (average salary GS 11, 12, 13) \* 2 (fringe benefits) X 10,600 hours = \$1,011,664.

### 15. Program Changes

This is a new collection. We anticipate receiving 1,325 (an increase from 0) 126 GME applications and supporting documentation through the MEARIS™ system during Round 1

as this is a new collection request. For Rounds 2 through Round 5, we anticipate no program changes and our estimate of receiving 1,325 application will remain unchanged.

16. Publication and Tabulation Dates

The hospital application data is not to be published for statistical use.

17. Expiration Date

In accordance with section 126 of the Consolidated Appropriations Act, 2021 (Public Law 116-260) this collection will be required for at least five years after the date of approval. We will seek renewal of this collection for Round 4 and Round 5. The expiration date of this collection will be displayed on the welcome page of the application in MEARIS™ and the expiration date will also be displayed on the pdf printout of the application should the applicant choose to print the document

18. Certification Statement

There are no exceptions to the certification statement.

C. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This section does not apply because statistical methods were not employed for this collection.