Supporting Statement – Part A
Hospital Notices: IM / DND
(CMS-10065/66; OMB #0938-1019)

BACKGROUND

The Centers for Medicare & Medicaid Services (CMS) requests the renewal of the Office of Management and Budget (OMB) currently approved Medicare notices: the Important Message from Medicare (IM) and the Detailed Notice of Discharge (DND).

The purpose of the IM is to inform beneficiaries and enrollees of their rights as hospital inpatients and how to request a discharge appeal by a Quality Improvement Organization (QIO) and how to file a request. Consistent with 42 CFR 405.1205 for Original Medicare and 422.620 for Medicare health plans, hospitals must provide the initial IM within 2 calendar days of admission. A follow-up copy of the signed IM is given no more than 2 calendar days before discharge. The follow-up copy is not required if the first IM is provided within 2 calendar days of discharge.

In accordance with 42 CFR 405.1206 for Original Medicare and 422.622 for Medicare health plans, if a beneficiary/enrollee appeals the discharge decision, the beneficiary/enrollee and the QIO must receive a detailed explanation of the reasons services should end. This detailed explanation is provided to the beneficiary/enrollee using the DND, the second notice included in this renewal package.

This information collection applies to beneficiaries in Original Medicare and enrollees in Medicare health plans.

For purposes of these provisions;

- The term “Medicare health plans” includes Medicare Advantage plans and cost plans, and
- “Beneficiaries” refers to Medicare beneficiaries in Original Medicare and “enrollees” refers to Medicare beneficiaries enrolled in Medicare health plans.
- “Hospitals” refers to hospitals and Critical Access Hospitals (CAHs).

We are not making any changes to this package’s requirements or any information collection/reporting instruments or instructions.

A. JUSTIFICATION

1. NEED AND LEGAL BASIS

Section 1866(a)(1)(M) of the Social Security Act (the Act) sets forth the requirements that hospitals notify beneficiaries in inpatient hospital settings of their rights, including their right to appeal a discharge. The authority for the right to a discharge appeal is set forth at Sections 1869(c)(3)(C)(iii)(III) and 1154(a)of the Act.

The IM and DND fulfil the following regulatory requirements:

- §405.1205 (b) – For all Medicare beneficiaries, hospitals must deliver valid, written notice of a beneficiary's rights as a hospital inpatient, including discharge appeal rights. The hospital must use a standardized notice, as specified by CMS. This is satisfied by IM delivery.
- §405.1206(e)(1) – When a QIO notifies a hospital that a beneficiary has requested an expedited discharge, the hospital must deliver a detailed notice to the beneficiary as soon as possible but no later than noon of the day after the QIO's notification. This is satisfied by DND delivery.

Additionally, 42 CFR 417.600(b) provides that Medicare health plans must follow these same discharge appeal notification procedures for their enrollees in the covered hospitals:

- §422.620(b) – For all Medicare Advantage enrollees, hospitals must deliver valid, written notice of an enrollee's rights as a hospital inpatient including discharge appeal rights. The hospital must use a standardized notice, as specified by CMS. This is satisfied by IM delivery.
- §422.622(e)(1) – When the QIO notifies an MA organization that an enrollee has requested an immediate QIO review, the MA organization must, directly or by delegation, deliver a detailed notice to the enrollee as soon as possible, but no later than noon of the day after the QIO's notification. This is satisfied by DND delivery.

2. INFORMATION USERS

Hospitals must deliver a hard copy of the IM to beneficiaries/enrollees at the time of admission, and a follow-up copy of the signed IM must be delivered at or near the time of discharge depending on the length of the hospital stay and timing of first IM delivery.

The beneficiary must be given a paper copy of the signed IM to keep, regardless of whether a paper or electronic version is delivered and whether the signature is digitally captured or manually signed.

If the beneficiary/enrollee decides to appeal, the hospital will deliver a DND to the QIO and beneficiary/enrollee, detailing the rationale for the discharge decision.

3. USE OF INFORMATION TECHNOLOGY

A hospital may deliver an IM that is viewed on an electronic screen before signing. A beneficiary/enrollee must be given the option of requesting paper rather than

electronic issuance if that is what the beneficiary/enrollee prefers. Regardless of whether a paper or electronic version is delivered, and whether the signature is digitally captured or manually penned, the beneficiary/enrollee must be given a paper copy of the signed IM to keep.

In cases where the beneficiary/enrollee has a representative who is not physically present, hospitals are permitted to deliver the IM by telephone as long as a hard copy is delivered to the representative.

4. DUPLICATION OF EFFORTS

The requirement that hospitals supply beneficiaries/enrollees in hospitals with advance notice of service discharges does not duplicate any other effort and the information cannot be obtained from any other source.

5. SMALL BUSINESSES

These requirements will not adversely affect small businesses.

6. LESS FREQUENT COLLECTION

Consumer research supports providing information close to the time an individual needs to make a decision. In the case of an individual receiving hospital services, he or she needs to decide whether the services continue to be medically necessary. (Providing the information other than during the receipt of services would significantly reduce the effectiveness.) In addition, providing the notice two days in advance of coverage ending decreases potential financial liability in the event the beneficiary/enrollee wants to appeal. Providing advance notices to less than 100% of all individuals who are facing service discharges would not afford all beneficiaries/enrollees equal protection of their rights.

7. SPECIAL CIRCUMSTANCES

There are no special circumstances to report. No statistical methods will be employed. The regulations at §422.1202(b) and §422.624(c) require that the completed IMs be timely delivered to beneficiaries/enrollees or their representatives. For Medicare enrollees, hospitals are required to deliver the IM on behalf of the plan. Note: CMS holds the Medicare health plan responsible for delivery of all notices, and compliance with the regulations governing this activity.

8. FEDERAL REGISTER NOTICE/OUTSIDE CONSULTATION

The 60-day notice published in the Federal Register on 5/26/2022 (87 FR 32028).
No comments received

The 30-day notice published in the Federal Register on 8/24/2022 (87 FR 51984).

9. PAYMENTS/GIFTS TO RESPONDENT

No payments or gifts is provided to respondents for their participation or involvement within the collection of information.

10. CONFIDENTIALITY

Not applicable; CMS does not collect information. The hospital and plan will maintain records of the notices, but those records do not become part of a federal system of records.

11. SENSITIVE QUESTIONS

Not applicable. We do not ask any question of the enrollee.

12. BURDEN ESTIMATES

Annual Burden Estimates

- The total hourly burden for the IM is: 2,340,395 hours
- The total hourly burden for the DND is: 44,712 hours
- The total wage burden for the IM is: $186,201,879
- The total wage burden for the DND is: $3,557,287

In CY 2020, there were 8,776,484 discharges from Medicare inpatient hospitals.[1] Accordingly, we estimate that 8,776,484 initial IMs were delivered that year.

We estimate that approximately 60%, or 5,265,890 of these beneficiaries, would have also received the follow-up copy of the initial IM.[1]

Consequently, we estimate that hospitals delivered a total of 14,042,374 initial and follow-up IMs to Medicare beneficiaries/enrollees (8,776,484 + 5,265,890) in 2020.

In 2020, Medicare beneficiaries/enrollees2 requested 44,712 discharge appeals[2].

1 There are no quantifiable data on follow-up IM delivery. With prior PRA submissions, we estimated that the follow- up IM was likely delivered to 60% of beneficiaries/enrollees receiving an initial copy of the IM. The public has been invited to comment on this approach and the resulting estimate, in prior PRA comment periods. However, no comments were received on the assumption, and we have never received any suggested alternative estimates. Thus, we will continue to use this methodology with this package submission.

2 For QIO contract year spanning from February 1, 2020 to January 31, 2021.

Because the DND is only required for beneficiaries/enrollees requesting a discharge appeal, we know that in 2020, 44,712 DNDs were delivered.

To arrive at the hourly and wage burdens we made the following assumptions and calculations for the individual notices:

IM hourly burden

Delivering the 14,042,374 IMs to beneficiaries/enrollees results in a total annualized burden of 2,340,396 hours (10 minutes x 14,042,374 IMs/60 minutes).

DND hourly burden

Delivering the 44,712 DNDs to beneficiaries/enrollees results in a total annualized burden of 44,712 hours (1 hour x 44,712 DNDs).

Wages

To derive average costs, we used data from the U.S. Bureau of Labor Statistics' May 2021
National Occupational Employment and Wage Estimates for all salary estimates (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 (calculated at 100 percent of salary), and the adjusted hourly wage.

Table 1: Cost Estimates

[1] Occupation Title	Occupation Code	Mean Hourly Wage ($/hr)	Fringe Benefit ($/hr)	Adjusted Hourly Wage ($/hr)
Registered nurse	29-1141	$39.78	$39.78	$79.56

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.

IM wage burden

1 CMS Program Use & Payments/Data.cms.gov

The cost of IM delivery is $13.26 per notice ($79.56 x 10 minutes/60 minutes). Thus, we estimate a total wage burden of $186,201,879 for the IM ($13.26 x 14,042,374 IMs).

DND wage burden

The cost of DND delivery is $79.56 per notice ($79.56 x 1 hour). Thus we estimate a total wage burden of $3,557,287 for the DND ($79.56 x 44,712 DNDs).

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

We estimate that hospitals and CAHs will deliver 14,087,086 notices, annually (14,042,374 IMs + 44,712 DNDs). This represents a decrease of 3,655,717 from our last collection. This is likely due to consequences of the pandemic.

The cost per response is now $13.26 for the IM and $79.56 for the DND, based on an adjusted hourly salary rate of $79.56.

Previously, it was $11.79 for the IM and $72.60 for the DND based on an hourly salary rate of $70.62. This is due to updated wage index numbers.

16. PUBLICATION AND TABULATION DATES

CMS does not intend to publish data related to the notices.

17. EXPIRATION DATE

CMS will display the expiration date and OMB control number at the bottom of all forms and instructions.

18. CERTIFICATION STATEMENT

No exception to any section of the I-83 is requested.