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Office of Management and Budget (OMB)

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Date: January 30, 2023

Subject: Non-substantive Change Request – Application for Enrollment in Part B Immunosuppressive Drug Coverage (OMB #0938-1428)

This memo requests approval of non-substantive changes to the approved information collection, Application for Enrollment in Part B Immunosuppressive Drug Coverage (OMB #0938-1428).

Background

Medicare is a federal program to provide health insurance for people age 65 and older, and those under 65 with certain disabilities or end-stage renal disease (ESRD). The Social Security Act (the Act) provides that certain individuals who are medically determined to have ESRD and apply for Medicare coverage, are entitled to benefits under Medicare Part A and eligible to enroll in Part B. The Act requires that an individual's entitlement to Parts A and B based on ESRD status ends with the 36th month after the month in which an individual receives a kidney transplant.

Section 402 of the Consolidated Appropriations Act, 2021 (CAA) amended section 226A(b)(2) of Act to make certain individuals eligible for enrollment under Medicare Part B solely for purposes of coverage of immunosuppressive drugs described in the Act. Effective January 1, 2023, this provision allows certain individuals whose Medicare entitlement based on ESRD would otherwise end after a successful kidney transplant to continue enrollment under Medicare Part B only for the coverage of immunosuppressive drugs described in section 1861(s)(2)(J) of the Act.

In October 2022, OMB approved a new information collection request from CMS for the enrollment form for Medicare Part B Immunosuppressive Drug Coverage (OMB #0938-1428). Social Security Administration processes the enrollment requests for this benefit, and during initial use of the form SSA received feedback that the attestation in the form is confusing for respondents. Specifically, SSA shared that respondents are unsure of how to answer the question about whether they have other insurance that would qualify them for the Part B Immunosuppressive Drug benefit (Part B-ID).

Overview of Requested Changes

CMS identified the following area for clarification. The attestation was created to satisfy the requirements of CAA legislation. The attestation currently states:

By using this form to enroll in Part B-ID benefit for immunosuppressive drug coverage I attest that:

I am not enrolled in, and do not expect to enroll in certain, other health insurance coverage, and I will notify Social Security within 60 days if I enroll in other health insurance coverage. Yes or No.

NOTE: Other health insurance programs that would exclude respondents from enrollment eligibility in Part B-ID benefit for immunosuppressive drug coverage, as described on page one of form CMS-10798 are:

- Employer Group Health Plan
- TRICARE for Life
- Medicaid
- Being enrolled in the patient enrollment system of the Department of Veterans Affairs (VA)

SSA shared that when individuals read the attestation statement, they may think they are saying ‘No’, I am not enrolled in any of those health plans or programs listed above, when the statement asks them to attest that ‘Yes’ they are not enrolled. The respondent could interpret the statement in different ways. The first interpretation might be, “I am affirming **Yes** I am not enrolled in, and do not expect to enroll in certain, other health insurance coverage, and I will notify Social Security within 60 days if I enroll in other health insurance coverage.” The second interpretation might be, “I am affirming **No**, because I am not enrolled in and do not expect to enroll in certain, other health insurance coverage, and I will notify Social Security within 60 days if I enroll in other health insurance coverage.” This inconsistency in interpretation could cause the respondent to make an unintended attestation.

To address the potentially confusing statement, CMS proposes to change the attestation to make it clear that the person is making an affirmative statement that they are enrolled or not. Second, we propose to split the attestation into two separate statements to reduce any confusion. If separated, the statements will read:

- Statement 1: I am enrolled in, or expect to be enrolled in, certain other health insurance coverage. Yes or No
- Statement 2: I will notify Social Security within 60 days if I enroll in other health insurance coverage. Yes or No

This change does not add any new questions or requests for information. It only clarifies the attestation statement that exists in the form currently.

Time Sensitivities

Individuals seeking to enroll in Part B-ID likely have an urgent need to obtain immunosuppressive drugs and the statement, as written, may confuse individuals enough to answer the attestation incorrectly and therefore be denied coverage inappropriately. If the

package is not cleared, this puts the agency at risk of delaying respondent enrollment and they will be unable to get the drugs they need.