

Supporting Statement Part A
Application for Part A (Hospital Insurance) and Part B (Medical Insurance) for People with
End-Stage Renal Disease and Supporting Statute and Regulations in 42 CFR 406.7 and
406.13
CMS-43, OMB 0938-0080

The form's name has been changed to clarify its purpose. The current form is called Application for Hospital Insurance for Individuals with End-Stage Renal Disease. The new title, Application for Part A (Hospital Insurance) and Part B (Medical Insurance) for People with End-Stage Renal Disease, has been updated to clarify that people with ESRD can use the form to apply for both Parts A and B.

Background

Form CMS-43 (Application for Part A (Hospital Insurance) and Part B (Medical Insurance) for People with End-Stage Renal Disease) supports section 226A(a) of the Social Security Act (the Act) and corresponding regulations at 42 CFR 406.7(c)(3) and 406.13.

Individuals with End-Stage Renal Disease (ESRD) have the opportunity to apply for Medicare benefits and obtain premium-free Part A if they meet certain criteria outlined in statute. Sections 226A of the Act authorizes entitlement for Medicare Hospital Insurance (Part A) if the individual with ESRD files an application for benefits and meets the requisite contributions through one's own employment or the employment of a related individual to meet the statutory definition of a "currently insured" individual outlined in section 214 of the Act. Further, for individuals who meet the requirements for premium-free Part A entitlement, Medicare coverage starts based on the dates in which the individual started dialysis treatment or had a kidney transplant. These statutory provisions are codified at 42 CFR 406.7(c)(3) and 407.13.

The requirements in law for Medicare Part A entitlement differ from the criteria on the basis of age or disability. As such, the existing applications for Medicare are not sufficient to capture the information needed to determine Medicare entitlement under the ESRD provisions of the law. Form CMS-43 (Application for Part A (Hospital Insurance) and Part B (Medical Insurance) for People with End-Stage Renal Disease) was designed specifically to capture all the information necessary to determine eligibility for Medicare entitlement and process the proper coverage start date.

Form CMS-43 provides a standardized means to determine the eligibility criteria for entitlement to Medicare Part A, as outlined in law. Information that is collected on Form CMS-43 is used by the Social Security Administration (SSA) – the Centers for Medicare & Medicaid Services' agent for processing Medicare entitlements.

In this 2024 iteration, there are substantive changes to the CMS-43 form and CMS is requesting an Reinstatement with changes. We have adjusted our burden based on improved methods of estimating the number of respondents. Additionally, there are changes to the collection instrument—the prior form had 17 questions, and the new form has 7 sections. Each section has approximately 2-13 questions, but not every section will be applicable to each applicant.

A. Justification

1. Need and Legal Basis

Section 226A of the Social Security Act (the Act) provides that certain individuals diagnosed with ESRD may apply and become entitled to Medicare premium-free Part A. To be eligible for Medicare Part A entitlement, individuals must:

- be diagnosed with ESRD;
- be fully or currently insured under the Social Security program (as outlined in section 214 of the Act), be entitled to Social Security benefits, or are the spouse or dependent child of a person who is insured or entitled to Social Security benefits;
- file an application for Medicare benefits; and
- has satisfied the requisite waiting period based on when dialysis started or a transplant occurred.

Form CMS-43 elicits the information that the Social Security Administration (SSA) -- CMS' agent for processing Medicare entitlements -- needs to properly determine whether the individual is eligible for Medicare and when coverage can begin. This form is an essential part of the application process for entitlement to premium-free Part A.

Individuals who are entitled to premium-free Part A are also eligible to enroll in Medicare Part B, as outlined in section 226A(c) of the Act and codified at 42 CFR 407.10(a). Therefore, Form CMS-43 also elicits information regarding enrollment in Medicare Part B, so that individuals who become entitled to Medicare Part A can also have their enrollment in Part B start simultaneously.

2. Information Users

The CMS-43 form is used (in conjunction with the CMS-2728, OMB control number 0938-0046) to establish entitlement to Medicare Part A and enrollment in Medicare Part B for individuals with ESRD. Form CMS-43 is only used for initial applications for Medicare by individuals diagnosed with ESRD. Form CMS-2728 provides the

medical documentation that the individual has ESRD, and it accompanies Form CMS-43.

Form CMS-43 is completed by the person applying for Medicare or by an SSA representative using information provided by the Medicare enrollee during an in person interview. The majority of the forms are completed by an SSA representative on behalf of the individual applying for Medicare benefits. The form is owned by CMS, but not completed by CMS staff.

The CMS-43 form follows the application questions and requirements used by SSA to determine eligibility for Social Security benefits (Title II of the Act). This is done not only for consistency purposes, but because certain requirements under title II must be met in order to qualify for Medicare under the ESRD provisions. SSA processes Medicare entitlements on behalf of CMS.

3. Use of Information Technology

The form will be available on the internet (<https://www.cms.gov/Medicare/CMSForms/CMS-Forms/CMS-Forms-Items/CMS017342>); it is also available by contacting SSA. Data is collected through receipt of the form at one of SSA's local offices or collection via a telephonic interview with a SSA representative. The information collected is reviewed manually by SSA. Thus, the collection of this information does not involve the use of information technology.

4. Duplication of Efforts

Generally, there is no duplication of effort in the collection of this information. Use of this form is generally the first request for Medicare benefits by the individual. Even if the individual has filed previously and entitlement has been denied or terminated, the prior information must be updated to ensure proper disposition of the new application.

If no prior filing has occurred, this information collection does not duplicate any other effort and the information cannot be obtained from any other source.

5. Small Business

Small businesses are not affected by the collection of this information.

6. Less Frequent Collection

This information is collected only as needed, and only when an individual applies for Medicare entitlement on the basis of ESRD. Each individual respondent uses the form one time when he or she submits the application for Medicare benefits. If this

information is not collected, the individual cannot obtain entitlement to Medicare. Since the statute permits entitlement, and specific data is necessary to determine eligibility, the burden cannot be minimized.

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 Consultations

The 60-day Federal Notice published in the Federal Register on 04/05/2024 (89 FR 24008).

No comments were received during the comment period.

The 30-day Federal Notice published in the Federal Register on 07/09/2024 (89 FR 56383).

9. Payments/Gift to Respondents

There are no payments or gifts provided to respondents. Respondents participate in this collection of data to obtain entitlement to Medicare.

10. Confidentiality

This collection will be used solely by SSA for the purpose of determining an individual's eligibility for Medicare entitlement on the basis of ESRD. The completed form is not provided to CMS, rather it is stored with SSA. CMS does not review or store the application and data within it.

Once SSA approves the Medicare entitlement, they will send CMS data so that we can establish the person on the Medicare rolls. Personal identifying information, which includes the entitlement reason as being on the basis of ESRD, is stored at CMS. There is an agreement governing the exchange of information: SSA Information Exchange Agreement No. 10042/CMS Information Exchange Agreement No. 2017-39.

Both CMS and SSA are responsible for ensuring that all PII remains confidential.

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

Respondents include individuals who are working currently, may not be working currently or never worked. To derive average costs for individuals we used data from the U.S. Bureau of Labor Statistics' May 2022 National Occupational Employment and Wage Estimates for our salary estimate (www.bls.gov/oes/current/oes_nat.htm). We believe that the burden will be addressed under All Occupations (occupation code 00-0000) at \$23.11/hr.

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

There are approximately **45,200 respondents** annually who apply for Medicare on the basis of ESRD. The data represents the most current information available, based on Medicare Part A entitlements on the basis of ESRD from January-December 2023, via the Eligibility Enrollment Medicare Online (ELMO) database. Based on the information requested for completion by the applicant on the form, we estimate that it takes an applicant on average **25 minutes** (or 0.42 hours) to complete. In aggregate we estimate an annual burden of **18,984 hours** (45,200 respondents x 0.42 hr) at a cost of \$422,584 (18,984 hr x \$22.26) or \$9.35 per beneficiary (\$422,584 /45,200 respondents).

Collection of Information Instruments and Instruction/Guidance Documents

- Application for Part A (Hospital Insurance) and Part B (Medical Insurance) for People with End-Stage Renal Disease

This form contains seven sections that must be answered to determine an individual's eligibility for and entitlement to Medicare based upon ESRD.

Item 1: Requests information necessary to identify the applicant (name, sex, date/place of birth, and Social Security number (SSN)). Under section 205 of the Act, the Commissioner of SSA shall assign SSNs to all individuals, including applicants for and recipients of benefits under any federally funded program (e.g., Social Security, Supplemental Security Income benefits and Medicare), aliens who are lawfully present in the U.S. and children. The SSA uses the SSN as the record identifier for applicants for or recipients of benefits under title II and title XVIII (Medicare) of the Act.

Item 2: Requests information about the individual's own work history to determine if there is insured status based upon his/her own work record. Requests information about the individual's parent's SSN or Medicare Number if the individual is using their parent's work history or Social Security/Retirement Board insured status to qualify for ESRD benefits.

Item 3: Requests citizenship or lawful presence information which is used by CMS to determine if Medicare can make payments on behalf of the individual. Section 401 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) further amended by Section 5561 of the Balance Budget Act of 1997 (BBA) mandate that qualified aliens not lawfully present in the United States are not eligible to receive any federal benefit. This is outlined in 8

U.S.C. 1611 and 8 U.S.C. 1641. The definition of qualified alien is codified in 8 CFR 1.3.

Item 4: Is completed if the individual is using their spouse's or former spouse's work record or Social Security/Railroad Retirement Board status to qualify for ESRD benefits. The SSN of the spouse is required to determine if the spouse is insured. There are no alternative identifiers that can be used by SSA to determine earnings information.

Item 5: Requests information about the individual's current health condition and treatment, including dates of dialysis and/or kidney transplant. This data is used to determine eligibility for Medicare entitlement and the proper date for which Part A and Part B coverage can begin. As outlined in statute, the dates of entitlement vary depending upon whether the individual is dialyzing or has received a kidney transplant.

Item 6: Provides information about Medicare Part B and obtains the individual's request for enrollment in that coverage.

Item 7: Provides a space for the applicant to record additional remarks for their application for Medicare based on ESRD. Item 8: Requests the signature of the applicant and the date the application was signed. If the application is signed by mark (X), a witness who knows the applicant must supply the following information in items 7d through 7e: the signature of the witness, as well as the date the witness signed the application.

The collection of this information makes it possible to determine Medicare entitlement for individuals with ESRD.

13. Capital Costs

There are no capital costs.

14. Cost to Federal Government

Printing Costs

The form is not pre-printed but made available to SSA representatives to print and provide to the individual upon request. We estimate that only ten percent of individuals requesting Medicare benefits ask for SSA to mail the form to the individual. We estimate that the cost for the printing of the form and the cost of an envelope to mail the form is \$0.15 each. The printing cost associated with the Form CMS-43 is \$678 annually based on a quantity of 4,520 (one tenth of the total respondents).

Mailing Costs

We estimate that only ten percent of individuals requesting Medicare benefits ask for SSA to mail the form to the individual. In such cases, SSA will ask if the individual wants to conduct the in-person interview via telephone and if the individual prefers the paper form, SSA will mail the form to the individual. The cost to send the form first class mail is \$0.68 each, based on the current rate of postage set by the United States Postal Service (<https://www.usps.com/business/prices.htm>).

The cost burden for the mailing is computed as follows:

There are 4,520 pieces ($45,200 \times 10\% = 4,520$) and each mailing will cost \$0.68 per piece. Therefore, the cost to the government for mailing is \$3,074 ($4,520 \times \$0.68 = \$3,074$ total cost).

Processing Costs

As most of the applications are completed through an in-person interview via telephone with an SSA representative, we estimate it will take the federal government employee 25 minutes to collect and record the information outlined in the form. In addition, the medical verification of an ESRD diagnosis and treatment is required to establish eligibility for entitlement. This is collected using Form CMS-2728 (OMB control number 0938-0046). Upon collection of the information outlined in both forms, the SSA representative must manually review the application to determine eligibility and process the Medicare entitlement. We estimate that this review will take a federal government employee 20 minutes to complete, based on experience. Thus, the total time is 45 minutes per respondent.

The burden is computed as follows:

It is calculated that the burden hours for 40,680 (90% of 45,200 who will be interviewed) responses to be collected, reviewed, and recorded in 45 minutes per response to be 30,510 total hours. ($40,680 \times 0.75$ (45 minutes)). Reviewing forms that are mailed in will take 1,492 hours ($4,250$ mailed in forms \times 20 minutes or .33 hours). The total hourly burden is 32,002 hours.

To derive average costs, we used data from the Office of Personnel Management 2024 General Schedule (GS) Locality Pay Table for all salary estimates (<https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salarytables/pdf/2024/GS.pdf>). We estimate that the average government employee at SSA to receive and record the collected data to be a Grade 11, Step 5 (GS-11-5), which we believe is the most appropriate level for a SSA representative performing this function.

As the processing of this form occurs at the national level and not just one geographic location, we estimated the hourly wage using the national base general schedule. Such an hourly wage is \$33.73 or \$70,387 annually. Therefore, the total cost to the government to complete the annual volume of responses is \$1,079,427 (32,002 hours x \$33.73 per hour = \$1,079,427).

TOTAL FEDERAL COSTS

The total federal cost including printing, mailing, and processing costs is \$1,083,179 [(\$678 (printing) + \$3,074 (mailing) + \$1,079,427 (employee salary)].

15. Changes to Burden

There are significant increases to the burden in this submission. First, the annual number of respondents increased from 25,000 to 45,200 and the average cost for each individual to complete the form increased to \$22.26. Secondly, the wage earnings for an employee at the GS-11, step 5 level increased from \$29.98/hr in 2020 to \$33.73/hr in 2024. We have also included costs associated with the optional mailing of the form at the request of the individual. The costs for the mailing and some of the federal government estimates were not previously factored into the burden. The burden from the 2021 approved submission increased in cost from \$459,731 to \$1,083,179 for federal government costs – a change of \$623,448.

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16. Publication/Tabulation Data

This information is not published or tabulated.

17. Expiration Date

The form displays the expiration date in the top right corner of the form.

18. Certification Statement

There are no exceptions to the certification statement.

B. Collection of Information Employing Statistical Methods

There have been no statistical methods employed in this collection.