Administration of Psychotropic Medication to Unaccompanied Children

OMB Information Collection Request
0970 - NEW

Supporting Statement Part A - Justification

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Type of Request: New

Submitted By:
Office of Refugee Resettlement
Administration for Children and Families
U.S. Department of Health and Human Services

Summary

On June 29, 2018, Plaintiffs filed their federal class action lawsuit in the Central District of California, western division, captioned *Lucas R. et al v. Becerra et al* (Case No. 2:18-CV-05741 DMG PLA), asserting claims under the *Flores* consent decree, the Trafficking Victims Protection Reauthorization Act of 2008, the Due Process clause, and the First Amendment. Plaintiffs alleged the violation of unaccompanied children rights in decisions regarding family reunification, placement in restrictive facilities, services for children with disabilities, administration of psychotropic medication, and access to legal assistance. On May 3, 2024, the Court granted final approval for the settlement agreements of the Plaintiffs' claims for disabilities, psychotropic medication, and legal assistance. As part of the settlement agreement for the psychotropic medication claim, ORR is required, whenever possible, to obtain informed consent for the administration of psychotropic medication and provide certain information to the authorized consenter. Additionally, ORR is required to provide a written notice and obtain informed assent or agreement from children aged 14 or older before administering psychotropic medication. The psychotropic medication settlement agreement must be fully implemented by August 3, 2026, but data collection must be implemented by February 3, 2025 to ensure compliance with the Agreement.

1. Circumstances Making the Collection of Information Necessary

The Office of Refugee Resettlement (ORR) Unaccompanied Children (UC) Bureau provides care and custody for unaccompanied children until they can be safely released to a sponsor, repatriated to their home country, or obtain legal status. ORR funds residential care provider facilities that provide temporary housing and other services to children in ORR custody. Generally, care provider facilities are State-licensed (with the exception of those located in states unwilling to consider them for licensure because they serve unaccompanied children and Emergency or Influx Facilities) and must meet ORR requirements to ensure a high-level quality of care. Services provided at care provider facilities include, but are not limited to, education, recreation, vocational training, acculturation, nutrition, medical, mental health, legal, and case management.

ORR uses several instruments directly related to the care of unaccompanied children. The instruments in this information collection allow ORR to obtain informed consent from authorized consenters and informed assent or agreement from unaccompanied children for the administration of psychotropic medication.

Legal Authorities

Homeland Security Act (HSA), 6 U.S.C. 279 – Transferred responsibilities for the care and placement of unaccompanied children from the Commissioner of the former Immigration and Naturalization Service (INS) to the Director of ORR.

William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), 8 U.S.C. 1232 – Creates additional requirements for the placement, care, and release of unaccompanied children in federal custody. The TVPRA also directs ORR to create policies to ensure unaccompanied children are protected from traffickers and others seeking to victimize them or otherwise engage them in criminal, harmful, or exploitative activity.

***Flores v. Reno* Settlement Agreement, No. CV85-4544-RJK (C.D. Cal. 1996)** – Establishes an order of priority for sponsors with whom unaccompanied children should be placed; sets minimum standards for the housing, services, transportation, and discharge of unaccompanied children; and entitles Plaintiffs' counsel to visit ORR facilities.

Unaccompanied Children Program Foundational Rule, 45 C.F.R. 410.1310 – Establishes a uniform set of standards and procedures concerning the placement, care, and services provided to unaccompanied children in ORR care that is consistent with ORR's statutory duties and implements minimum standards for the care of unaccompanied children.

***Lucas R. et al v. Becerra et al* (Case No. 2:18-CV-05741 DMG PLA) Psychotropic Medication Settlement Agreement** – Implements a process for obtaining informed consent for the administration of psychotropic medication to children in ORR custody and identifies people authorized to provide informed consent. Lucas R. also establishes standards for monitoring the administration of psychotropic medication to children in ORR custody and care.

2. Purpose and Use of the Information Collection

The purpose of the forms included in this information collection is to gather information that will allow ORR to obtain informed consent from authorized consenters and informed assent or agreement from unaccompanied children for the administration of psychotropic medication. Information specific to each form follows.

- **Psychotropic Medication Informed Consent (Form MMH-1):** This form is completed by care providers to document information about a prescribed psychotropic medication, confirm required topics were discussed with an authorized consenter, and document verbal and written consent (or dissent) from the authorized consenter. See 45 CFR 410.1310 for related agency guidance.
- **Psychotropic Medication Assent Notice (Form MMH-2):** This form is completed by care providers to document and review information about a prescribed psychotropic medication with children aged 14 years or older and document their assent (or dissent). See 45 CFR 410.1310 for related agency guidance.

3. Use of Improved Information Technology and Burden Reduction

ORR is in the process of streamlining information management by consolidating unaccompanied children information from disparate storage locations, reducing manual paperwork processing conducted outside of the system (e.g., spreadsheets, PDFs, Word documents), maximizing the use of auto-population so that information is not entered more than once, enforcing business rules through automated workflow management, and improving business intelligence capabilities by automating reporting and data analytics.

The forms in this information collection will be in PDF format until ORR is able to incorporate them into one of its technology platforms.

4. Efforts to Identify Duplication and Use of Similar Information

The information being collected by these forms are not obtainable from other sources.

5. Impact on Small Businesses or Other Small Entities

The proposed information collections will not burden or impact small businesses.

6. Consequences of Collecting the Information Less Frequently

Not collecting the information requested in these forms would impede ORR from abiding by the terms of the *Lucas R. et al v. Becerra et al* (Case No. 2:18-CV-05741 DMG PLA) Psychotropic Medication Settlement Agreement and performing its charged duty of providing care and services to unaccompanied children.

7. Special Circumstances Relating to the Guidelines of 5 CFR 1320.5

None of the characteristics outlined in 5 CFR 1320.5(d)(2) apply to the instruments in this collection.

8. Comments in Response to the Federal Register Notice and Efforts to Consult Outside the Agency

In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13) and Office of Management and Budget (OMB) regulations at 5 CFR Part 1320 (60 FR 44978, August 29, 1995), ACF published a notice in the Federal Register announcing the agency's intention to request an OMB review of this information collection activity. This notice was published on July 22, 2024 (89 FR 59115) and provided a sixty-day period for public comment. During the notice and comment period, responses were received from one commenter. Attachment A provides a summary of the comments and ORR's responses.

9. Explanation of Any Payment or Gift to Respondents

No payment or gift will be provided to the respondents.

10. Assurance of Confidentiality Provided to Respondents

ORR established a system of records to ensure the level of confidentiality pursuant to the Privacy Act. 5 U.S.C. 552a. ORR's system of records notice, titled 09-80-0321 ORR Division of Children's Services Records, was published on July 18, 2016 at 81 FR 46682.

11. Justification for Sensitive Questions

Sensitive information related to children's medical and mental health diagnoses/conditions and prescribed psychotropic medication are collected in the forms. Collection of this information is necessary to provide healthcare to children in ORR custody and to abide by the terms of the *Lucas R. et al v. Becerra et al* (Case No. 2:18-CV-05741 DMG PLA) Psychotropic Medication Settlement Agreement. ORR does not collect sensitive information beyond what is necessary to provide healthcare services to child and meet the terms of the Settlement Agreement.

12. Estimates of Annualized Burden Hours and Costs

The following factors were used to estimate burden hours and cost to respondent:

- ORR funds approximately 300 care provider grantees.
- The estimated number of children prescribed psychotropic medication in a 12-month period is 500 and the estimated number of those children who are age 14 or older is 400.
- The cost to respondents was calculated using median hourly wage data from May 2023(accessed October 2024), for the Bureau of Labor Statistics (BLS) job code 21-1021 Child, Family, and School Social Workers in the industry of Other Residential Care Facilities. The rates were multiplied by two to account for fringe benefits and overhead – $22.01 × 2 = $44.02

Form	Annual Number of Respondents	Number of Responses per Respondent	Average Burden Hours per Response	Annual Total Burden Hours	Average Hourly Wage	Annual Total Cost
Psychotropic Medication Informed Consent (Form MMH-1)	300	2.0	1.50	900	$44.02	$39,618.00
Psychotropic Medication Assent Notice (Form MMH-2)	300	1.0	0.75	225	$44.02	$9,904.50
			Estimated Annual Burden Hours Total:	**1,125**	**Estimated Annual Cost Total:**	**$49,522.50**

13. Estimates of Other Total Annual Cost Burden to Respondents and Record Keepers

There are no other costs to respondents and record keepers.

14. Annualized Cost to the Federal Government

The annualized cost estimate for each of these instruments considers the time of a step 1 GS-12 in the Washington, DC locality to review information collected in the forms. No additional costs will be incurred by the Federal government for developing computer systems or storing the instruments as those systems are already in place. The hourly rate was multiplied by two to account for fringe benefits and overhead.

Form	Annual Number of Federal Staff	Number of Reviews per Federal Staff	Average Federal Staff Burden Hours per Review	Annual Total Federal Staff Burden Hours	Average Federal Staff Hourly Wage	Annual Total Federal Staff Cost
Psychotropic Medication Informed Consent (Form MMH-1)	110	5	0.25	138	$95.06	$13,070.75
Psychotropic Medication Assent Notice (Form MMH-2)	110	4.0	0.17	75	$95.06	$7,110.49
			Estimated Annual Burden Hours Total:	**212**	**Estimated Annual Cost Total:**	**$20,181.24**

15. Explanation for Program Changes or Adjustments

This is a new information collection.

16. Plans for Tabulation and Publication and Project Time Schedule

ORR does not plan to publish the information provided by the respondents.

17. Reason(s) Display of OMB Expiration Date is Inappropriate

ORR plans to display the expiration date of clearance as set by OMB.

18. Exceptions to Certification for Paperwork Reduction Act Submissions

No exceptions are necessary for this information collection.