60-day Notice Comments & Response Summary
Requirements Related to Surprise Billing; Part II
CMS-10791/OMB control number 0938-1433

CMS received eight comments in response to an information collection request (ICR) CMS released concerning CMS-10791, a Paperwork Reduction Act (PRA) document detailing requirements related to the "Requirements Related to Surprise Billing; Part II." Six of these comments recommended policy changes that were beyond the scope of the cost and burden estimates in this ICR. Although we appreciate these commenters' interest in interoperability standards and broader health care pricing dynamics or market structures that may affect the accuracy or usability of GFEs, among other issues, we have not included substantive responses to these comments in PRA package. The following is a summary of the comments related to the cost and burden estimates in this ICR, grouped by similar topic, and CMS's responses to those comments.

Comment:

One commenter noted that variation in procedure coding can undermine the accuracy of GFEs for uninsured (or self-pay) individuals and increase burden on Selected Dispute Resolution (SDR) entities. The commenter suggested that standardizing or automating coding could improve accuracy, reduce administrative burden, and ensure estimates are consistent and comparable across providers.

Response:

Although this ICR does not establish or modify coding selection standards or methodologies, we note that nothing in 45 CFR 149.610 prohibits providers or facilities from using standardized or automated coding processes to generate accurate and individualized service codes for inclusion in GFEs for uninsured (or self-pay) individuals.

Comment:

One commenter stated that CMS underestimates the total compliance burden and associated operational costs of the proposed information collection. The commenter noted that while CMS provides estimates of responses and hours, these estimates do not fully account for administrative costs or indirect and dynamic effects, including disruptions to provider workflows, impacts on revenue cycle management, and the effects these information collection requirements may have throughout the health care system. The commenter further stated that the burdens associated with the collection may fall disproportionately on small and independent providers, who may face higher relative compliance costs due to limited resources, potentially contributing to financial strain, reduced participation, and increased consolidation in the health care market.

Response:

In developing its burden estimates, CMS carefully considered the range of administrative and operational activities that providers may need to engage in to comply with these requirements. The estimates reflect CMS's assessment of the time and costs associated with compliance and were developed in accordance with PRA methodology and based on established estimation practices. We note that indirect impacts such as market effects are beyond the scope of this ICR.

HHS recognizes the potential for disproportionate impacts on small and independent providers and facilities and considered the varying circumstances of different provider and facility types when developing these estimates. HHS has also taken steps to minimize burden on providers and facilities, including offering standardized templates and exercising enforcement discretion with respect to the requirement that GFEs for uninsured (or self-pay) individuals include expected charges for items or services expected to be provided by co-providers or co-facilities.[1]

Comment:

One commenter raised concerns that the scope and structure of the information collection may extend beyond its narrow statutory purpose. The commenter cautioned that data collection requirements could evolve into broader administrative oversight of pricing and reimbursement, exceeding the intended role of supporting patient protections and dispute resolution.

Response:

This ICR includes only information collections that CMS has determined to be necessary for the proper performance of agency functions and does not expand the underlying statutory or regulatory requirements. This ICR does not introduce new burdens or policy requirements or expand oversight beyond the scope of existing law and regulation.

[1] FAQs about Consolidated Appropriations Act, 2021 Implementation - Good Faith Estimates (GFEs) For Uninsured (or Self-pay) Individuals – Part 3 (December 2, 2022), available at https://www.cms.gov/files/document/good-faith-estimate-uninsured-self-pay-part-3.pdf.