

Supporting Statement for
Medicare Advantage Appeals and Grievance
Data Disclosure Requirements (42 CFR § 422.111)
CMS-R-282

A. Background

Part 422 of Title 42 of the Code of Federal Regulations (CFR) distinguishes between certain information that a Medicare Advantage (MA) organization must provide to each enrollee, on an annual basis, and information that the MA organization must disclose to any MA eligible individual upon request. This requirement can be found in § 1852 (c)(2)(C) of the Social Security Act and 42 CFR § 422.111(c)(3). The requirement states that MA organizations must disclose information pertaining to the number of disputes, and their disposition in the aggregate, with the categories of grievances and appeals to any individual eligible to elect an MA organization who requests this information. Medicare demonstrations also are required to conform to MA appeals regulations and thus are included in the count of organizations affected by this requirement.

Data collection categories are based on the MA organization's grievance and appeals processes as prescribed under 42 CFR, Subpart M of Part 422. An organization determination, defined in § 422.566, is an MA organization's decision on whether to pay for or provide a service. When an MA organization denies coverage, an enrollee may dispute the denial through the appeals process. When an MA organization reconsiders its adverse organization determination, the reconsideration marks the beginning of the appeals process. If upon reconsideration an MA organization continues to deny an enrollee health coverage, then the plan must automatically forward the enrollee's case file to an independent review entity for it to render a final decision. CMS is requiring MA organizations to report aggregate appeals data at both the plan's and the independent review entity's reconsideration levels.

MA organizations also are required by the statute and the MA regulation to provide aggregate grievance data to MA eligible beneficiaries upon request. The regulations at 42 CFR § 422.564 require that MA organizations and demonstrations provide meaningful procedures for timely hearing and resolving enrollees' grievances. Section 422.561 of 42 CFR defines a grievance as any complaint or dispute other than one involving an organization determination as defined in § 422.566(b). CMS is only requiring that MA organizations and demonstrations report grievances that involve quality of care complaints. Since most states already regulate quality of care issues, CMS continues to expect that reporting in this area will not pose a problem for MA organizations and demonstrations.

Both the Balanced Budget Act (BBA) of 1997 and the Government Performance and Results Act (GPRA) of 1993 establish a need for CMS to set and monitor performance standards in the area of appeals. Furthermore, as part of CMS's effort to provide appeals information to beneficiaries, MA organizations and demonstrations must report appeals and grievance data requested by any individual eligible to elect an MA organization so that the individual can use the data to evaluate aspects of plan performance.

The BBA required MA organizations to provide appeals and grievance data to beneficiaries beginning January 1, 1999. Thus, CMS continues to require MA organizations and demonstrations to report on appeals and grievance dispositions upon request by an individual eligible to elect an MA organization. The burden for submitting the data to beneficiaries also can be found in 0938-0753.

B. Justification

1. Need and Legal Basis

The disclosure requirement may be found in § 1852 (c)(2)(C) of the Social Security Act and 42 CFR § 422.111(c)(3). These provisions require MA organizations and demonstrations to disclose information pertaining to the number of disputes, and their disposition in the aggregate, with the categories of grievances and appeals to any individual eligible to elect an MA organization who requests this information.

The GPRA requirement may be found in 3 U.S.C. § 1101. GPRA requires government agencies to submit an annual plan whereby the agency sets and reports on performance measures that may be linked to the agency's budget. Over a three-year period beginning in 1998, CMS started the development of a comprehensive appeals data system to collect appeals data at the plan-level in order to hold MA organizations and demonstrations accountable for their performance. However, that goal was not met due to concerns regarding burdening MA organizations with increased reporting requirements. In that respect, CMS did not move forward with efforts to analyze internal appeals activity using a CMS developed system. Since MA organizations and demonstrations remain under a requirement to collect and provide this information to individuals eligible to elect an MA organization, we continue to need the same format and form for reporting.

2. Information Users

The organization's appeals and grievance information will be provided by the organization to, individuals eligible to elect an MA organization, or persons or entities making the request on behalf of the individuals, who request this information. MA eligible individuals will use this information to help them make informed decisions

about their organization's performance in the area of appeals and grievances. Language in the original instrument indicating CMS will monitor MA organizations as part of the biennial review process has been removed to comport with revised CMS monitoring protocols. Thus, CMS is no longer listed as a user of appeals and grievance information.

3. Improved Information Technology

There is currently no automated, electronic, mechanical, or other technological collection techniques or other forms of information technology that permit electronic submission of responses. However, there are no barriers or obstacles that prohibit the use of improved technology for this information collection activity. Our presumption is that these data are already being collected internally either manually, or by some type of automated system.

4. Duplication of Similar Information

There are currently no other specified recording instructions for the collection of plan-level appeals and grievance data. CMS's independent review entity (IRE) collects appeals data concerning any reconsideration that is forwarded for IRE review. The statute does not require CMS's IRE to report this information.

5. Small Businesses

We do not anticipate that small MA organizations and demonstrations will be significantly affected by these information collection requirements since the amount of data collected will be proportionate to the number of members enrolled in the organization. That is, the number of appeals and/or grievances to be reported should be proportionate to the member population.

6. Less Frequent Collection

MA organizations and demonstrations will be required to collect data in six-month intervals. In consulting with health plans, CMS determined that six-month intervals would allow enough data to be collected to be meaningful while not overburdening organizations.

Allowing MA organizations and demonstrations to report less frequently would adversely affect the intent of the data collection effort in that regulators, purchasers, and individual consumers would not have access to the most up-to-date information needed to compare MA organizations and make more informed decisions about health care.

7. Special Circumstances

None.

8. Federal Register Notice/Outside Consultation

CMS published a 60-day Federal Register notice on September 22, 2006. There have been no additional outside consultations for this form.

9. Payments/Gifts To Respondents

The MA organizations and demonstrations are under contract with CMS. There are no payments or gifts associated with the collection of these data.

10. Confidentiality

The data that the MA organizations and demonstrations are collecting are aggregate. There is no beneficiary specific information reported in the data collection. Therefore, there is no requirement needed to maintain the confidentiality of the information collected.

11. Sensitive Questions

We are not collecting any information of a sensitive nature.

12. Burden Estimate (Total Hours & Wages)

Total annual hourly burden: **4,235.84** hours for all 434 organizations, or **9.76** hours per organization.

Total annual wage burden: **\$74,608.94** for all 434 organizations, or **\$ 171.91** per organization.

Collecting Appeals and Grievance Data:

A. To arrive at the total hourly burden for collection of appeals and grievance data:

We determined that the time it would take for each organization to collect the appeals data CMS requires would be 60 minutes per collection period. CMS also requires that the information be collected every six months, so the total hours needed per organization per year would be two hours. We arrived at this number through the presumption that the data requested by CMS are already being collected internally by each of the MA organizations and would therefore only have to be downloaded or compiled into a single report. We determined that, as of August 2006, CMS contracted with 434 MA organizations and demonstrations.¹

¹ Source: *Medicare Managed Care Contract Report – Monthly Summary Report (August 2006)*. See: (cont'd on next page)

We then multiplied the total hours per organization per year (2 hours) by the total number of MA organizations (434) to determine that the total hourly burden would be **868** hours per year.

B. The total annual wage burden for collection of appeals grievance data:

We determined the average hourly rate for the individual responsible for collecting the appeals information. The professional and analytical skills required to perform this function are similar to those required for a GS 07 Step 01 position. The hourly rate for this position is \$17.57. We then multiplied this hourly rate (\$17.57) by the 868 hours for data collection to arrive at the annual wage burden of \$15,250.76 per year.

868 hours @ \$17.57 = **\$15,250.76** total wage hours, or **\$35.14** per organization.

Reporting Appeals and Grievance Data:

A. To arrive at the total hourly burden for reporting appeals and grievance data:

There are 42 million Medicare beneficiaries according to 2006 CMS statistics. We estimated that .001%, or 42,000, beneficiaries would request an appeal and/or grievance disclosure report from an MA organization.² We then estimated that it would take approximately 5 minutes for a staff person to send the appeals report to these beneficiaries. Thus, 42,000 reports distributed over 434 MA organizations is approximately 97 reports per plan. By rounding 96.77 reports per plan to 97 reports per plan, the annual number of responses (i.e., reports) comes to 42,098 per year. By multiplying the total number of responses per year (42,098) by hours per response (.08) we calculate a total annual burden of **3,367.84** hours that plans will spend reporting appeals and grievance data to beneficiaries.

B. To arrive at the total wage burden for reporting appeals and grievance data:

We determined the average hourly rate for the individual responsible for collecting and formatting the appeals information. The professional and analytical skills required to perform this function are similar to those required for a GS 07 Step 01 position. The hourly rate for this position is \$17.57. We then multiplied this hourly rate (\$17.57) by the .08 hours per response estimated for reporting appeals and

http://www.cms.hhs.gov/PrescriptionDrugCovGenIn/downloads/monthly%20summary%20report_aug%202006_08142006.zip

² New manual instructions (Medicare Managed Care Manual, Chapter 13), to be issued in early 2007, will ask plans to provide the appropriate CMS regional office with copies of all appeals and grievance data requests sent by a beneficiary. Collection of this information will enable us, in future PRA packages, to better estimate the number of annual requests for MA grievance and appeals data received by the plans.

grievance data to arrive at \$1.41 cost per response. Last, we multiplied \$1.41 by the annual number of responses (42,098) to determine the total annual wage burden of **\$59,358.18** per year.

13. Capital Costs

There are no capitals costs associated with these information collection requirements.

14. Cost to the Federal Government

We do not expect a cost to the government since this information will no longer be internally analyzed by CMS.

15. Program Changes / Burden Changes

The Balanced Budget Act of 1997 requires CMS to implement these information collection requirements. The change in burden is due to:

- an increase in the number of MA organizations reporting this data (from 211 to 434 MA organizations);
- an increase in the hourly rate for the individual responsible for collecting and formatting the data, (based on the increase in the GS 07 Step 01 hourly rate from \$15.74/hour to \$17.57/hour); and
- revisions to our estimates to reflect costs associated with producing appeals and grievance data reports for all MA organizations.

16. Publication and Tabulation Dates

CMS does not plan to publish this data.

17. Expiration Date

CMS does not have a problem with displaying the expiration date.

18. Certification Statement

There are no exceptions to the certification statement.

C. Statistical Methods

These information collection requirements do not employ statistical methods.