

Supporting Statement A  
Distribution of GME Residency Positions Under Section 126 of the  
Consolidated Appropriations Act (CAA), 2021, and Section 4122 of the  
CAA, 2023  
(CMS-10790; OMB 0938-1417)

A. BACKGROUND

This is a revision package. Section 1886(h) of the Act, as added by section 9202 of the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 (Pub. L. 99-272) and implemented in regulations at existing §§413.75 through 413.83, establishes a methodology for determining payments to hospitals for the direct costs of approved graduate medical education (GME) programs. Section 1886(h)(2) of the Act, as added by COBRA, sets forth a methodology for determining a hospital-specific, base-period per resident amount (PRA) that is calculated by dividing a hospital's allowable direct costs of GME in a base period by its number of full-time equivalent (FTE) residents in the base period. The base period is, for most hospitals, the hospital's cost reporting period beginning in FY 1984 (that is, October 1, 1983, through September 30, 1984). In general, Medicare direct GME payments are calculated by multiplying the hospital's updated PRA by the weighted number of FTE residents working in all areas of the hospital complex (and at nonprovider sites, when applicable), and the hospital's Medicare share of total inpatient days. Section 1886(d)(5)(B) of the Act provides for a payment adjustment known as the indirect medical education (IME) adjustment under the inpatient prospective payment system (IPPS) for hospitals that have residents in an approved GME program, in order to account for the higher indirect patient care costs of teaching hospitals relative to nonteaching hospitals. The regulation regarding the calculation of this additional payment is located at §412.105. The hospital's IME adjustment applied to the Diagnosis-Related Group (DRG) payments is calculated based on the ratio of the hospital's number of FTE residents training in either the inpatient or outpatient departments of the IPPS hospital to the number of inpatient hospital beds.

Section 1886(h)(4)(F) of the Act established limits on the number of allopathic and osteopathic residents that hospitals may count for purposes of calculating direct GME payments. For most hospitals, the limits were the number of allopathic and osteopathic FTE residents training in the hospital's most recent cost reporting period ending on or before December 31, 1996. Under section 1886(d)(5)(B)(v) of the Act, a similar limit based on the FTE count for IME during that cost reporting period is applied effective for discharges occurring on or after October 1, 1997.

We sought and received approval in CMS-10790; OMB 0938-1417 for a new collection of GME applications for additional residency positions over the limits submitted in accordance with section 126 of the Consolidated Appropriations Act (CAA), 2021. We are now seeking approval to revise this collection to include GME applications for additional residency positions over the limits submitted in accordance with section 4122 of the Consolidated Appropriations Act (CAA), 2023.

## B. JUSTIFICATION

### 1. Need and Legal Basis

The revision of this collection is associated with a proposed (CMS-1808-P; date TBD)

Section 126(a) of the CAA, 2021, amended section 1886(h) of the Act by adding a new section 1886(h)(9) requiring the distribution of additional residency positions (slots) to qualifying hospitals. Section 1886(h)(9)(A) makes an additional 1,000 Medicare funded residency slots available to be phased in beginning in FY 2023 until the aggregate number of 1,000 full-time equivalent residency positions are distributed. Section 1886(h)(9)(A) also limits the aggregate number of residency positions made available in a single fiscal year across all hospitals to not exceed 200. Section 1886(h)(9)(B) of the law requires that at least 10 percent of the aggregate number of slots be distributed to hospitals in four categories: (1) hospitals in rural areas (or treated as being located in a rural area under the law), (2) hospitals currently operating over their GME cap, (3) hospitals in states with new medical schools or branch campuses, and (4) hospitals that serve areas designated as health professional shortage areas. Section 1886(h)(9)(F)(ii) of the Act defines a qualifying hospital as a hospital in one of these four categories.

Section 1886(h)(9)(C) of the Act places certain limitations on the distribution of the residency positions. First, a hospital may not receive more than 25 additional full-time equivalent (FTE) residency positions. Second, no increase in the otherwise applicable resident limit of a hospital may be made unless the hospital agrees to increase the total number of FTE residency positions under the approved medical residency training program of the hospital by the number of positions made available to that hospital.

Beginning fiscal year 2023, for each qualifying hospital that submits a timely application, the Secretary is required to notify hospitals of the number of positions distributed to them by January 31 of the fiscal year of the increase, and the increase is effective beginning July 1 of that fiscal year.

Section 4122(a) of the CAA, 2023 amended section 1886(h) of the Act by adding new section 1886(h)(10) requiring the distribution of additional residency positions (slots) to qualifying hospitals. Section 1886(h)(10)(A) makes an additional 200 Medicare funded residency slots available in FY 2026. Section 1886(h)(10) of the law requires that at least 100 of the available slots be distributed for psychiatry or psychiatry subspecialty residencies. Section 1886(h)(10)(B) of the Act also requires a minimum distribution for certain categories of hospitals. The Secretary is required to distribute at least 10 percent of the aggregate number of total residency positions available to each of four categories of hospitals. The categories are as follows: (1) hospitals in rural areas (or treated as being located in a rural area under the law), (2) hospitals currently operating over their GME cap, (3) hospitals in states with new medical schools or branch campuses, and (4) hospitals that serve areas designated as health professional shortage areas. Section 1886(h)(10)(F)(iii) of the Act defines a qualifying hospital as a hospital in one of these four categories.

Section 1886(h)(10)(B)(iii) of the Act further requires that each qualifying hospital that submits a timely application receive at least 1 (or a fraction of 1) of the residency positions made available under section 1886(h)(10) of the Act before any qualifying hospital receives more than 1 residency position.

Section 1886(h)(10)(C) of the Act places certain limitations on the distribution of the residency positions. First, a hospital may not receive more than 10 additional full-time equivalent (FTE) residency positions. Second, no increase in the otherwise applicable resident limit of a hospital may be made unless the hospital agrees to increase the total number of FTE residency positions under the approved medical residency training program of the hospital by the number of positions made available to that hospital. Third, if a hospital that receives an increase to its otherwise applicable resident limit under section 1886(h)(10) of the Act is eligible for an increase to its otherwise applicable resident limit under 42 CFR 413.79(e)(3) (or any successor regulation), that hospital must ensure that residency positions received under section 1886(h)(10) of the Act are used to expand an existing residency training program and not for participation in a new residency training program.

The Secretary is required to notify hospitals of the increased number of 4122 GME slots distributed to them by January 31, 2026, and the increase is effective beginning July 1, 2026.

## 2. Information Users

The information is submitted by eligible teaching hospitals. In general, to be eligible for Medicare GME payments, a teaching hospital must have an approved, accredited residency program in allopathic medicine, osteopathy, dentistry, or podiatry. For the additional 200 slots implemented in section 4122 of the CAA; 2023, the psychiatry and psychiatry subspecialty residencies must also be accredited by the Accreditation Council for Graduate Medical Education for the purpose of preventing, diagnosing, and treating mental health disorders.

CMS staff will determine the validity of the hospitals' requests for additional Medicare funded residency slots requested in accordance with section 126 of the Consolidated Appropriations Act, 2021 (Public Law 116-260) and section 4122 of the Consolidated Appropriations Act, 2023 (Public Law 117-328) as detailed above in the Need and Legal Basis section of this document.

## 3. Use of Information Technology

CMS worked with a contractor to build a new application module in a system called the Medicare Electronic Application Request Information System™ (MEARIS™). MEARIS™ is a secure web-based platform that receives and processes applications specific to Medicare payment and coding. Users will select or type in a designated URL on their web browser and sign in with a unique user name and password. CMS began collecting section 126 GME applications in this system in January, 2022. The application deadline for FY 2023 was March 31, 2022, as discussed in the FY 2022 IPPS final rule with comment period (CMS-

1752-FC3). CMS will collect section 4122 GME applications in this system beginning in January 2025. The application deadline for FY 2026 is March 31, 2025 as discussed in the FY 2025 IPPS proposed rule (CMS-1808-P).

The information collected in the section 126 GME application is based on the requirements in section 126 of the Consolidated Appropriations Act, 2021 (Public Law 116-260), and is provided in APPENDIX A.

The information collected in the section 4122 GME application is based on the requirements in section 4122 of the Consolidated Appropriations Act, 2023 (Public Law 117-328), and is provided in APPENDIX B. These collection information/questions are subject to change/revision when final policies are adopted after consideration of public comments in the FY 2025 IPPS final rule. We will update the collection information, as necessary, as soon as possible after the rule is finalized.

Electronic filing eliminates the burden of hard copy reporting and reduces the amount of paperwork that hospitals would otherwise submit.

#### 4. Duplication

This information collection does not duplicate any other effort and the information cannot be obtained from any other source.

#### 5. Small Business

This information collection does not affect small businesses.

#### 6. Less Frequent Collection

CMS is required by law to phase in the 1,000 section 126 GME slots over a 5-year period beginning in FY 2023. Two hundred (200) slots per year will be implemented during each year (called Rounds) of a 5-year phase-in. Eligible teaching hospitals interested in applying for the slots during any or all years of the 5-year phase-in period must submit separate applications for each round in accordance with the application deadlines published annually by CMS. Providers that chose to submit an application for a section 126 Medicare funded residency slots available in Round 1, were required to submit their application by March 31, 2022 to permit CMS adequate time to review the applications, award the slots and notify the recipients by the statutory January 31, 2023 deadline. Once awarded, the GME slots will become effective on July 1<sup>st</sup> of each year of the implementation. Failure to collect this information would make it impossible to implement section 126 according to the statutory requirements and hospitals would be unable to expand the number of residents that will serve at-risk Medicare beneficiaries in areas most in need.

CMS is required by law to distribute the 200 section 4122 GME slots in FY 2026. This is a one-time collection as required in section 4122 of the Consolidated Appropriations Act, 2023 (Public Law 117-328).

## 7. Special Circumstances

There are no special circumstances.

## 8. Federal Register Notice/Outside Consultation

A 60-day *Federal Register* notice of the FY 2025 IPPS/LTCH PPS proposed rule (RIN 0938-XXXX, CMS-1808-P) published on XXXXXX (89 FR XXXX).

## 9. Payment/Gift to Respondent

Eligible hospitals submit applications for GME slots to potentially receive Medicare funded residency slots. No payments or gifts are provided to the hospitals for submitting applications.

## 10. Confidentiality

We are not pledging privacy or confidentiality. The data collected is not required to be protected under the Privacy Act as there are no records containing personal identifying information on specific individuals submitted in this collection.

## 11. Sensitive Questions

There are no sensitive questions associated with this collection.

## 12. Burden Estimate (Hours) & (Wages)

Section 126 of the Consolidated Appropriations Act, 2021 (Public Law 116-260) and section 4122 of the Consolidated Appropriations Act, 2023 (Public Law 117-328).

PL 116-260 specifies the application process for section 126 GME applications and PL 117-328 specifies the application process for section 4122 GME applications. For this revised collection request, the total burden is the estimated time and effort that would be required for eligible hospitals to gather appropriate documentation, prepare, and submit an application for both the section 126 GME application and the section 4122 GME application. We estimate receiving 1,325 section 126 GME applications and 1,325 section 4122 GME applications. This estimate is based on the fact that there are 1,325 hospitals that currently receive GME payments, and we estimate receiving one (1) section 126 GME application annually and one (1) section 4122 GME application annually from each of the 1,325 hospitals that currently receive GME. Further, we estimate that it will take each hospital approximately 8 hours to complete and submit an application for a total burden of 10,600 hours (8 hours x 1,325 hospitals). The time estimate for preparation of this application is based upon the professional judgment of staff members at the Centers for Medicare and Medicaid Services. The most recent data from the BLS reflects a mean salary for legal secretaries and administrative assistants of \$26.05. With the fringe benefits included the salary is \$52.10

(\$26.05 X 2). The total cost related to this information collection is approximately \$416.80 per eligible hospital per year (\$52.10 x 8.0 hours per hospital). The total estimated burden is \$552,260 (\$52.10 X 10,600 hours). As a result of the proposed policies in this proposed rule, for FY 2026, if an eligible hospital submits an electronic application to CMS for section 126 of the CAA, 2021 or for section 4122 of the CAA, 2023, the total annual burden remains the same. However, if an eligible hospital submits an electronic application to CMS for both section 126 of the CAA, 2021, and section 4122 of the CAA, 2023, we estimate that the new total annual burden to be 16 hours per eligible hospital. We estimate the adjustment in the number of hours from 8 hours to 16 hours, results in 21,200 hours (16 hours x 1,325 hospitals) at a cost of \$1,104,520 (\$52.10 X 21,200 hours) for FY 2026 only. We have calculated the hours as follows:

Application	# of Applications	# of Hours	Total Hours	Rate/Hour †	Cost/Hospital+ 100% Fringe (rate * 2)	Total Estimated Burden (rate/hour * 2 {fringe} * # of hours
126 GME	1,325	8	10,600	\$26.05	\$52.10	\$552,260††
4122 GME	1,325	8	10,600	\$26.05	\$52.10	\$552,260
<b>TOTAL</b>	<b>2,650</b>	<b>8</b>	<b>21,200</b>	<b>N/A</b>	<b>N/A</b>	<b>\$1,104,520</b>

† BLS website at <https://www.bls.gov/oes/current/oes436012.htm> Legal Secretaries and Admin Assistants

†† approved and accepted in CMS-10790; OMB 0938-1417

### 13. Capital Costs

There are no capital costs.

### 14. Cost to Federal Government

CMS will receive the section 126 GME and the section 4122 GME applications electronically. We estimate receiving 1,325 section 126 GME applications per round and 1,325 section 4122 GME applications because there are approximately 1,325 approved Medicare teaching hospitals. We also estimate that it will take 8 hours for CMS staff to process each application. This time estimate is based on the professional judgment of staff members at the Centers for Medicare and Medicaid Services.

Using the 2021 Federal Pay Scale, we estimated staff at the GS 11, 12 and 13 levels (step 5) to process the applications.

( <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2021/generalschedule/>)

The annual cost to the Federal Government is \$1,011,664.

Applications	# of Applications	Hours/Hospital	Total Hours	Hour/Rate (average salary of GS 11, 12, 13)	Cost/Hospital + 100% Fringe (rate * 8 hours)	Total Cost to Federal Government (cost/hospital * # of Applications)

126 GME	1,325	8	10,600	\$47.72	\$381.76	\$505,832
4122 GME	1,325	8	10,600	\$47.72	\$381.76	\$505,832
<b>TOTAL</b>	2,650	8	21,200	\$47.72	\$763.52	\$1,011,664

† approved and accepted in CMS-10790; OMB 0938-1417

#### 15. Program Changes

The GME section 4122 application collection is a revision to this collection. This is a one-time collection for FY 2026. We anticipate receiving 1,325 applications and supporting documentation and awarding 200 slots in FY 2026 only. The burden hours have increased from 10,600 to 21,200. The cost has increased from \$838,460 to \$1,104,520.

#### 16. Publication and Tabulation Dates

The hospital application data is not to be published for statistical use.

#### 17. Expiration Date

In accordance with section 126 of the Consolidated Appropriations Act, 2021 (Public Law 116-260) this collection will be required for at least five years after the date of approval. We will seek renewal of this collection if necessary for any remaining application rounds. The expiration date of this collection will be displayed on the welcome page of the application in MEARIST™ and the expiration date will also be displayed on the pdf printout of the application should the applicant choose to print the document.

In accordance with section 4122 of the Consolidated Appropriations Act, 2023 (Public Law 117-328) this collection will be required from the date of approval through July 1, 2026. The expiration date of this collection will be displayed on the welcome page of the application in MEARIST™ and the expiration date will also be displayed on the pdf printout of the application should the applicant choose to print the document.

#### 18. Certification Statement

There are no exceptions to the certification statement.

#### C. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This section does not apply because statistical methods were not employed for this collection.