Supporting Statement Part A
Documentation Requirements Concerning Emergency and Nonemergency Ambulance Transports Described in the Beneficiary Signature Regulations in 42 CFR 424.36(b)
(CMS-10242, OMB 0938-1049)

Background

Federal regulations at 42 CFR 424.36(a) require the beneficiary's signature on a claim unless the beneficiary has died or the provisions of § 424.36(b), (c), or (d) apply. Section 424.36(b) states that if the beneficiary is physically or mentally incapable of signing the claim, the claim may be signed by one of the persons specified in § 424.36(b)(1) through (5). Ambulance providers and suppliers have complained that it is often impossible or impractical to get a beneficiary's signature on a claim (or the signature of a person authorized to sign a claim on behalf of the beneficiary) in order to properly bill Medicare, because: (1) beneficiaries are often incapable of signing claims due to their medical condition at the time of transport; (2) another person authorized to sign the claim under § 424.36(b) is unavailable or unwilling to sign the claim at the time of transport; and, (3) it is impractical or not feasible to later locate the beneficiary or the beneficiary's authorized representative to obtain a signature on the claim before submitting the claim to Medicare for payment.

We are sympathetic to the concerns of the ambulance industry. Therefore, in the Calendar Year (CY) 2008 Medicare Physician Fee Schedule Final Rule published on November 27, 2007 (CMS-1385-FC) (72 FR 66321), we added an exception to the beneficiary signature requirement for submitting claims, at § 424.36(b)(6), stating that an ambulance provider or supplier may sign the claim when the beneficiary is incapable of signing in emergency ambulance transport situations, if certain conditions and documentation requirements are met. As a result of this regulation, we received comments requesting that ambulance providers and suppliers should also be allowed to sign claims in certain nonemergency ambulance transport situations when a beneficiary is incapable of signing, for example, during ambulance transports of beneficiaries that have Alzheimer's disease or dementia. Therefore, in the CY 2009 Medicare Physician Fee Schedule Final Rule published November 19, 2008 (CMS-1403-FC) (73 FR 69860), we revised § 424.36(b)(6) by stating that an ambulance provider or supplier may also sign the claim when the beneficiary is incapable of signing in certain nonemergency ambulance transport situations, if certain conditions and documentation requirements are met. We stated in both CMS-1385-FC and CMS-1403-FC that an ambulance provider or supplier is required to maintain in its files for a period of at least four years from the date of service the following documentation: (1) a signed contemporaneous statement by an ambulance employee present during the time of transport that the beneficiary was physically or mentally incapable of signing the claim form and that none of the individuals listed in § 424.36(b) were available or willing to sign the claim form on behalf of the beneficiary at the time of transport; (2) the date and time the beneficiary was transported, and the name and location of the facility that received the beneficiary; and (3) a signed

contemporaneous statement from a representative of the facility that received the beneficiary documenting the name of the beneficiary and the time and date that the beneficiary was received by that facility.

The most recent approval of this information collection request (ICR) was issued by the Office of Management and Budget on July 7, 2020. We are now seeking to renew this approval before it expires on July 31, 2023. We have made no changes to the information being collected and are updating burden estimates to reflect changes in the number of ambulance suppliers, the number of claims, and the hourly wages of the personnel collecting the information.

A. Justification

1. Need and Legal Basis

The statutory authority requiring a beneficiary's signature on a claim submitted by a provider is located in sections 1835(a) and in 1814(a) of the Social Security Act (the Act), for Part B and Part A services, respectively. The authority requiring a beneficiary's signature for supplier claims is implicit in sections 1842(b)(3)(B)(ii) and in 1848(g)(4) of the Act. Federal regulations at 42 CFR 424.32(a)(3) state that all claims must be signed by the beneficiary or on behalf of the beneficiary (in accordance with § 424.36). Section 424.36(a) states that the beneficiary's signature is required on a claim unless the beneficiary has died or the provisions of § 424.36(b), (c), or (d) apply.

We believe that for emergency and nonemergency ambulance transport services, where the beneficiary is physically or mentally incapable of signing the claim (and the beneficiary's authorized representative is unavailable or unwilling to sign the claim), that it is impractical and infeasible to require an ambulance provider or supplier to later locate the beneficiary or the person authorized to sign on behalf of the beneficiary before submitting the claim to Medicare for payment. Therefore, we created an exception to the beneficiary signature requirement with respect to emergency and nonemergency ambulance transport services where the beneficiary is physically or mentally incapable of signing the claim and if certain documentation requirements are met. Thus, we added subsection (6) to paragraph (b) of 42 CFR 424.36. The information required in this ICR is needed to help ensure that services were in fact rendered and were rendered as billed.

2. Information Users

Ambulance providers and suppliers are the primary information users because they are required by the beneficiary signature regulation at 42 CFR 424.36(b)(6) to collect and maintain the information described above. When ambulance providers and suppliers sign claims on behalf of beneficiaries they are required by § 424.36(b)(6) to keep certain

documentation in their files for at least four years from the date of service. The purpose of this information collection by ambulance providers and suppliers is to document emergency and nonemergency ambulance transports where the beneficiary was incapable of signing the claim and the ambulance provider or supplier signed the claim on the beneficiary's behalf. However, the information collected by ambulance providers and suppliers may also be used by: (1) CMS Part A and Part B Medicare Administrative Contractors that process and pay ambulance claims; (2) CMS staff who review and audit claims for medical necessity; (3) CMS staff who review claims for overpayments; and (4) by others who investigate ambulance billing practices to ensure compliance under the False Claims Act and anti-kickback statute. Therefore, besides ambulance providers and suppliers, the information collected may be used by CMS, the Office of Inspector General, the Department of Justice, and the Federal Bureau of Investigations.

3. Improved Information Technology

The regulations are silent regarding the use of information technology for collection of this information.

4. Duplication of Similar Information

This information collection does not duplicate any other information collection effort.

5. Small Businesses

Small businesses and other small entities are affected by the collection of this information. The information will be collected by ambulance providers and suppliers, and part of the required documentation for claims submission will come from the facilities receiving the emergency and/or nonemergency ambulance transported beneficiaries who are incapable of signing the claim form. However, only the ambulance provider or supplier submitting the claim is required by regulation to store and maintain the required documentation, for a period of at least four years from the date of service.

6. Less Frequent Collection

The collection of this information is required by 42 CFR 424.36(b)(6). If the required documentation is not submitted in accordance with this regulation and in accordance with our timely filing regulations specified at § 424.44, then claims for emergency and certain nonemergency ambulance transport services will not be paid by Medicare unless an authorized beneficiary signature (as described in § 424.36(b)) is obtained.

7. Special Circumstances

The only special circumstance that applies to this collection of information is that an ambulance provider or supplier is required to maintain in its files the required documentation for a period of at least four years from the date of service.

8. Federal Register Notice/Outside Consultation

The 60-day notice was published in the Federal Register on January 27, 2023 (88 FR 5360). One comment was received during the public comment period that was in support of extending approval of this information collection under the Paperwork Reduction Act. No changes are being made to the information being collected. Our request for renewal updates the burden estimates for the information collection to reflect changes in the number of ambulance suppliers, the number of claims, and the hourly wages of the personnel collecting the information.

9. Payments/Gifts to Respondents

Payments or gifts to respondents will not be made in accordance with this collection.

10. Confidentiality

The confidentiality of the beneficiary's patient records will be assured according to all HIPAA rules and regulations and in accordance with the Privacy Act. The confidentiality and privacy of the beneficiary's information for emergency ambulance transport claims will be treated the same as with any other claim submitted to Medicare for payment.

11. Sensitive Questions

This collection of information does not include any questions of a sensitive nature.

12. Burden Estimate (Total Hours & Wages)

The latest available CMS data indicates that 10,233 Medicare-enrolled ambulance suppliers submitted a Medicare Part B ambulance claim in 2021. We estimate that it would take 5 minutes or less per affected transport for an ambulance supplier to comply with these recordkeeping requirements. Based on the best available data, we estimate the total annual burden associated with the documentation requirements in § 424.36(b)(6) to be 912,492 hours nationwide. We arrived at the estimated total number of annual burden hours by multiplying 5 minutes (5/60 = .0833) by the latest available number of Part B-paid ambulance supplier transport claims for services furnished in 2021 (10,954,288).

We note the following: (1) the total number of burden hours may be overstated because not every beneficiary who receives an ambulance transport is unable to sign the claim and (2) the 10,954,288 number of ambulance supplier transport claims does not include Part A ambulance provider transport claims because such claims are bundled into hospital payments.

We anticipate that this information will be prepared by emergency medical technicians and paramedics. According to the Bureau of Labor Statistics (BLS), U.S. Department of Labor, Occupational Employment and Wages, May 2021, the mean hourly wage for emergency medical technicians and paramedics was $19.94. The wage data can be viewed on the BLS web site, https://www.bls.gov/oes/current/oes_nat.htm. We have added 100% of the mean hourly wage to account for fringe and overhead benefits, which calculates to $39.88 ($19.94 +$19.94). Thus, the total ambulance supplier cost burden estimate is 912,492 total nationwide hours multiplied by $39.88/hour, which equals $36,390,181. The estimated cost per ambulance supplier is $3,556.16 ($36,390,181 ÷ 10,233 suppliers).

13. Capital Costs

There are no capital costs associated with this collection.

14. Cost to the Federal Government

The estimated annual cost to the Federal Government to process ambulance claims in accordance with this collection is approximately $8,500.

15. Changes to Burden

We updated the burden estimate in section A.12 from the last burden estimate to reflect changes in the number of ambulance suppliers, the number of claims, and the hourly wage of the personnel collecting the information. We have not changed the information collection requirements in any way.

The number of Medicare-enrolled ambulance suppliers increased from 10,229 to 10,233. The total estimated number of ambulance transports for Part B-paid claims in 2021 was 10,954,288. This number represents a 17.75% decrease in the number of Part B-paid ambulance transport claims from 2018. In light of these facts, we have adjusted the annual time and cost burden estimates accordingly. The total number of burden hours decreased from 1,110,757 to 912,492. The estimated average hourly wage for emergency medical technicians and paramedics increased from $36.30 to $39.88. The total estimated cost for obtaining the documentation required by 42 CFR 424.36(b)(6) decreased from approximately $3,941.78 to $3,556.16 per ambulance supplier.

16. Publication/Tabulation Dates

There are no publication or tabulation dates.

17. Expiration Date

There is no collection data instrument used in the collection of this information. As a result, this collection provides no instruments to display an expiration date or OMB control number.

18. Certification Statement

There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods

CMS does not intend to collect information employing statistical methods.