

Supporting Statement
Medicare Outpatient Observation Notice (MOON)
(CMS-10611; OMB 0938-1308)

BACKGROUND

The Centers for Medicare & Medicaid Services (CMS) requests the renewal of the Office of Management and Budget (OMB) currently approved Medicare notice: the Medicare Outpatient Observation Notice (MOON).

The MOON is a standardized notice delivered to persons entitled to Medicare benefits under Title XVIII of the Act who receive more than 24 hours of observation services, informing them that their hospital stay is outpatient and not inpatient, and the implications of being an outpatient.

This information collection applies to beneficiaries in Original Medicare and enrollees in Medicare health plans.

For purposes of these provisions;

- The term “Medicare health plans” includes Medicare Advantage plans and cost plans, and
- “Beneficiaries” refers to Medicare beneficiaries in Original Medicare and “enrollees” refers to Medicare beneficiaries enrolled in Medicare health plans.
- “Hospitals” refers to hospitals and Critical Access Hospitals (CAHs).

We are not making any changes to this package’s requirements or any information collection/reporting instruments or instructions.

A. JUSTIFICATION

1. NEED AND LEGAL BASIS

On August 6, 2015, Congress enacted the Notice of Observation Treatment and Implication for Care Eligibility Act (NOTICE Act) Public Law 114-42, amending Section 1866(a)(1) of the Social Security Act (the Act) (42 U.S.C. 1395cc(a)(1)), by adding a new subparagraph (Y). The NOTICE Act requires hospitals and CAHs to provide written notification and oral explanation to individuals who receive observation services as outpatients for more than 24 hours. The process for delivery of this notice was addressed in rulemaking, including a final rule, CMS1655-F (81 FR 56761, 57037 through 57052, August 22, 2016), effective October 1, 2016. The resulting regulations are located at 42 CFR Part 489.20(y).

The Medicare Outpatient Observation Notice (MOON), serves as the written notice component of this mandatory notification process. The standardized content of the MOON includes all informational elements required by statute, in language understandable to beneficiaries, and fulfils the regulatory requirements at 42 CFR Part 489.20(y).

2. INFORMATIONUSERS

Based on CMS statistics for 2020, we estimate the number of hospitals and CAHs delivering the MOON to be 4312, delivering approximately 683,222 notices (source: CMS Office of Enterprise and Data Analytics Information Policy & Analytics Group).

The MOON is not given every time items and services are furnished in a hospital or CAH. Rather, hospitals are only required to deliver the MOON to individuals receiving observation services as outpatients for more than 24 hours.

3. IMPROVED INFORMATION TECHNOLOGY

Hospitals must deliver a hard copy of the MOON to beneficiaries and enrollees or their representative. Hospitals must retain a copy of the signed MOON and may store the MOON electronically if electronic medical records are maintained.

If a hospital elects to issue a MOON that is viewed on an electronic screen before signing, the beneficiary must be given the option of requesting paper rather than electronic issuance if that is what the beneficiary prefers. Regardless of whether a paper or electronic version is issued, and whether the signature is digitally captured or manually penned, the beneficiary must be given a paper copy of the signed MOON.

In cases where the beneficiary has a representative who is not physically present, hospitals are permitted to give the MOON by telephone as long as a hard copy is delivered to the representative.

4. DUPLICATION OF SIMILAR INFORMATION

The information we are requesting is unique and does not duplicate any other effort.

5. SMALL BUSINESS

All hospitals are expected to give the MOON in relevant situations. The requirement does not impose any greater burden on small businesses than on large businesses since there is no difference in the information collected.

6. LESS FREQUENT COLLECTION

The MOON is given on an as-needed basis as described under 2, above.

7. SPECIAL CIRCUMSTANCES

There are no special circumstances.

8. FEDERAL REGISTER NOTICE/OUTSIDE CONSULTATION

The 60-day notice published in the Federal Register on 5/26/2022 (87 FR 32028).

No comments received

The 30-day notice published in the Federal Register on TBD (FR).

9. PAYMENT/ GIFT TO RESPONDENT

We will not provide payment or gifts to respondents.

10. CONFIDENTIALITY

We do not pledge confidentiality, as we are not collecting information. The provider will maintain records of notices and decisions, but those records do not become part of a federal system of records.

11. SENSITIVE QUESTIONS

We do not require beneficiaries to answer any sensitive questions.

12. BURDEN ESTIMATES

Hourly Burden

We estimate that delivery of the 2-page MOON, including the oral explanation, will take approximately 15 minutes (0.25 hour). Based on the 15 minute (0.25 hour) response time and annual frequency of responses, the annual hour burden is estimated to be 170,806 hours (683,222 responses x 0.25 hour) or approximately 40 hours per respondent (170,806 annual hour burden / 4312 hospitals and CAHs).

Wages

To derive average costs, we used data from the U.S. Bureau of Labor Statistics' May 2021 National Occupational Employment and Wage Estimates for all salary estimates (http://www.bls.gov/oes/current/oes_nat.htm). In this regard, the following table presents the mean hourly wage, the cost of fringe benefits (calculated at 100 percent of salary), and the adjusted hourly wage.

Table 1: Cost Estimates

Occupation Title	Occupation Code	Mean Hourly Wage (\$/hr)	Fringe Benefit (\$/hr)	Adjusted Hourly Wage (\$/hr)
Registered nurse	29-1141	\$39.78	\$39.78	\$79.56

As indicated, we are adjusting our employee hourly wage estimates by a factor of 100 percent. This is necessarily a rough adjustment, both because fringe benefits and overhead costs vary significantly from employer to employer, and because methods of estimating these costs vary widely from study to study. Nonetheless, there is no practical alternative, and we believe that doubling the hourly wage to estimate total cost is a reasonably accurate estimation method.

As stated in section 2, we estimate that 4312 hospitals and CAHs will deliver 683,222 notices, annually.

The cost per response is approximately \$19.89 based on an adjusted hourly salary rate of \$79.56 and the 15-minute response estimate ($\$79.56 \text{ Adjusted Hourly Wage} \times 0.25 \text{ hour}$). By multiplying the annual responses by \$19.89, the annual cost burden estimate is \$13,589,286 (683,222 responses \times \$19.89) or approximately \$3151 per hospital ($\$13,589,286 / 4312 \text{ hospitals and CAHs}$).

13. CAPITAL COSTS

There are no capital costs.

14. COSTS ASSOCIATED TO FEDERAL GOVERNMENT

There is no cost to the Federal Government for this collection.

15. PROGRAM OR BURDEN CHANGES

We estimate that hospitals and CAHs will deliver 683,222 notices, annually. This represents a decrease of 262,987 from our last collection. This is likely due to consequences of the pandemic.

The cost per response is now \$19.89 based on an adjusted hourly salary rate of \$79.56. Previously, it was \$18.15 based on an hourly salary rate of \$79.56. This is due to updated wage index numbers.

16. PUBLICATION AND TABULATION DATES

These notices will be published on the Internet; however, no aggregate or individual data will be tabulated from them.

17. EXPIRATION DATE

We are not requesting any exemption. Expiration and OMB control number will be displayed on all forms and instruction documents.

18. CERTIFICATION STATEMENT

There are no exceptions to the certification statement.

19. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

There are no statistical methods associated with this collection.