

Supporting Statement – Part A
Home and Community Based Services (HCBS) Incident Management Survey
CMS-10692, OMB 0938-1362

Background

This collection of information request sets out a follow up survey (HCBS Incident Management Survey) that states will be requested to complete and submit via a web-based platform in order to identify current methods and new promising practices for identifying, reporting, tracking, and resolving incidents of abuse, neglect, and exploitation. The results of the survey will also be used to review the strengths and weaknesses of each state's current incident management system, progress toward enhancements and improvements to these systems, and will inform guidance to help ensure states comply with sections 1902(a)(30)(A) and 1915(c)(2)(A) of the Social Security Act.

In this 2023 iteration we propose to update our cost and time estimates based on the most recent wage figures and shortened Incident Management Survey .

A. Justification

1. Need and Legal Basis

Section 1915(c) of the Social Security Act (“the Act”) authorizes the Secretary of Health and Human Services (HHS) to waive certain specific Medicaid statutory requirements so that a state may offer home and community-based services to state-specified target group(s) of Medicaid beneficiaries who need a level of institutional care that is provided under the Medicaid State plan.

To receive approval for a section 1915(c) waiver, states must submit an application to CMS that includes a description of their safeguards related to assuring participant health and welfare (e.g., response to critical incidents, such as abuse, neglect, or exploitation). Per section 1915(c)(2)(A) of the Act, states operating 1915(c) waivers are required to provide assurances that necessary safeguards have been taken to protect the health and welfare of waiver participants. Specifically, states must demonstrate on an ongoing basis that they identify, address, and seek to prevent instances of abuse, neglect, exploitation, and unexplained death, and that they have an incident management system that effectively resolves incidents and prevents further similar incidents to the greatest extent possible. States must also comply with section 1902(a)(30)(A) of the Act, which requires that states have methods and procedures in place to assure that payments to providers are consistent with efficiency, economy and quality of care.

Prior to the Public Health Emergency (PHE) CMS had conducted site-visits and/or been involved in follow up activities in a minimum of three states where abuse, neglect and/or exploitation were identified outside the system the state established to identify and remediate such occurrences. Simultaneously, the Office of the Inspector General (OIG) conducted a series of audits of states' section 1915(c) waiver programs focusing on abuse, neglect and exploitation. OIG findings to date have indicated that the states have not complied with the specifications of their waiver oversight programs with regards to health and welfare and as a result individuals have been placed in jeopardy.

Further, in a 2018 report², the U.S. Government Accountability Office (GAO) concluded that improved federal oversight of beneficiary health and welfare in home and community-based waiver programs, including section 1915(c) waivers, is needed. Specifically, they indicated that “CMS lacks assurance that it is receiving consistent, complete, and relevant information on deficiencies that is needed to oversee beneficiary health and welfare.” GAO recommended that the Administrator of CMS provide guidance and clarify requirements regarding the monitoring and reporting of deficiencies that states using home and community-based services waivers are required to report on their annual reports. CMS concurred with this recommendation and stated that it will issue guidance to states to reaffirm reporting requirements. GAO will continue to monitor actions in response to this recommendation.

OIG has conducted additional health and welfare audits and has announced they will be conducting additional audits in an unknown number of states. It is anticipated that an increased number of states will require intensive technical assistance in response to or as a result of these audits. To help inform technical assistance activities and ensure that states have necessary guidance for meeting section 1915(c) waiver reporting requirements, CMS issued an initial HCBS Incident Management Survey in 2019 to identify methods and promising practices for identifying, reporting, tracking, and resolving incidents of abuse, neglect, and exploitation. The 2019 survey helped CMS gain a comprehensive understanding of how states organize their incident management systems, and the strengths and weaknesses of each state’s incident management system. It also enabled CMS to assist states in improving their ability to monitor and accurately report on deficiencies related to health and welfare, and inform guidance to help ensure states comply with sections 1902(a)(30)(A) and 1915(c)(2)(A) of the Act through webinar and conference presentations.

Due both to the COVID-19 Public Health Emergency (PHE) with its significant disruptions to state Medicaid program in-person oversight functions, and to the ongoing Health and Welfare audits by OIG, some states have reported they have improved their critical incident management systems in communications with CMS. Other states have difficulty completing the health and welfare portion of their annual reports. To obtain the current cross-country status of states’ effectiveness at identifying, reporting, tracking, and resolving incidents of abuse, neglect, and exploitation, this proposal is for a consolidated survey to be sent to all of the state Medicaid agencies that have at least one approved 1915(c) waiver.

2. Information Users

The information will be reviewed by the Disabled and Elderly and Health Programs Group and its contractors, Lewis & Ellis and Guidehouse Consulting, within the Centers for Medicaid and CHIP Services to determine progress since the 2019 survey, new promising practices for incident management and to assess the strengths and weaknesses of states’ current incident management systems. The survey will be submitted by states via a web-based link in an email from CMS’ contractors and responses will be stored in an internal database.

3. Use of Information Technology

Information will be collected through a web-based Qualtrics survey. Results will be

uploaded to an Excel spreadsheet using the Qualtrics tool. Respondents will access the survey through a web-based link provided by CMS. The survey does not require a signature.

4. Duplication of Efforts

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

5. Small Businesses

This collection does not impact small businesses or other small entities.

6. Less Frequent Collection

CMS is requesting states complete a survey for each HCBS 1915(c) waiver operating in the state, and is requesting that the operating agency complete the survey for the respective waiver with input from the State Medicaid Agency. As noted in the survey, if incident management systems are aligned across waivers or the same individual is responsible for multiple waivers, the survey will allow the state to indicate such and complete the survey only once if it applies to multiple waivers. There are 259 waivers currently active in 47 states, for an average of approximately five 1915(c) waivers per state. During the 2019 survey, 45 states completed responses on 101 incident reporting systems covering 237 waivers. Although it is not precisely known how many distinct incident management systems are currently in operation throughout the country, some states employ the same incident management system across their waivers and therefore will require only one survey response, while others employ an incident management system specific to each waiver and will require multiple responses. In these cases, CMS is requesting states submit a response for each incident management system because these systems may have significant variation within a given state depending on the target populations, operational entities, and service arrays of their respective waivers.

7. Special Circumstances

There are no special circumstances that would require an information collection to be conducted in a manner that requires respondents to:

- Report information to the agency more often than quarterly;
- Prepare a written response to a collection of information in fewer than 30 days after receipt of it;
- Submit more than an original and two copies of any document;
- Retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;
- Collect data in connection with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study,
- Use a statistical data classification that has not been reviewed and approved by OMB;
- Include a pledge of confidentiality that is not supported by authority established in statute or regulation that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or

- Submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

8. Federal Register/Outside Consultation

The 60-day notice published in the Federal Register on October 4, 2023 (88 FR 68621). Comments must be received by December 4, 2023.

9. Payments/Gifts to Respondents

Payments or gifts will not be provided to respondents.

10. Confidentiality

Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

Assurances of confidentiality will not be provided to respondents. The information being requested for this data collection is intended to be shared publicly and will be used to inform the provision of future training activities and technical assistance. Further, as noted in #11 below, there are no sensitive questions associated with this collection.

11. Sensitive Questions

There are no sensitive questions associated with this collection. Specifically, the collection does not solicit questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

12. Burden Estimates

Wage Estimates

To derive average costs, we are using 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 BLS' mean hourly wage, our estimated cost of fringe benefits and other indirect costs (calculated at 100 percent of salary), and our adjusted hourly wage.

Occupation Title	Occupation Code	Mean Hourly Wage (\$/hr)	Fringe Benefits and Other indirect costs (\$/hr)	Adjusted Hourly Wage (\$/hr)
Social and Community Service Managers	11-9151	36.92	36.92	73.84

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 other indirect costs vary significantly from employer to employer, and because methods of

estimating these costs vary widely from study to study. Nonetheless, we believe that doubling the hourly wage to estimate total cost is a reasonably accurate estimation method.

Collection of Information Requirements and Associated Burden Estimates

The HCBS Incident Management Survey will be disseminated to the 47 state Medicaid agencies (including the District of Columbia) that have approved 1915(c) waivers to assess incident management systems of those waivers. Based on the results of the 2019 survey, it is estimated that states will submit a total of 105 responses (estimating two responses for each of the two states non-responsive to the previous survey as well as the 101 systems previously surveyed). We estimate that it will take 1.25 hours for a social/community service manager to gather information and complete the survey at \$73.84/hr. This is 15 minutes less than the previous estimate because the survey has been shortened by approximately 20% (35% reduction in multiple choice questions, and 13% in open questions). We estimate a one-time state burden of 158 hours [(105 responses x 1.25 hr/response) and \$11,667 (158 hr x \$73.84/hr).

Burden Summary

Requirement	Respondents	Responses	Time per Response	Total Annual Time (hours)	Labor Cost (\$/hr)	Total Cost (\$)
Incident Management Survey	47	105	1.25 hours	158	73.84	11,667

Collection of Information Instruments and Instruction/Guidance Documents

- HCBS Incident Management Survey (available at [CMS-CIMS-H&W-Survey](#))
- 2023 HCBS Incident Management Survey (PDF version)
- Introductory letter to be sent to states that includes background and purpose of the survey, helpful tips and guidelines, and each state's individualized survey link.

13. Capital Costs

CMS does not anticipate that any capital costs will be required for this collection.

14. Cost to Federal Government

Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantifying hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

The table below shows estimates of the average annual cost of the project to the Federal

government. Contractor costs are based on GSA labor categories³ and account for distribution of the survey, analysis of results, and development of presentations, reports and other materials. CMS staff costs are based on OPM GS wage tables⁴ and account for review and development of the survey, presentations, reports, and other materials.

Table of CMS Contractor Costs – FY22

Title	Rate (FFY18 Wage & Benefits)	Total Hours	Cost
Senior Consultant II	\$201	280	\$56,302
Consulting Director III	\$139	104	\$14,412
Senior Consultant	\$144	650	\$93,366
G&A	NA	NA	\$14,767
		Total Contractor Costs FY22	\$178,848

Table of CMS Staff Costs – FY22[^]

Title	Rate (FFY18 Wage & Benefits)	Total Hours	Cost
Division Director (GS-15)	\$165	30	\$4,952
Deputy Division Director (GS-14)	\$140	30	\$4,209
Health Insurance Specialist (GS-13)	\$119	50	\$5,938
Contract Specialist (GS-13)	\$119	5	\$594
		Total CMS Costs FY22	\$15,693
		Final FY22 Cost (CMS Staff and Contractors)	\$194,541

[^] All CMS staff costs assume a step level of 10

15. Changes to Burden

The revised survey includes anticipated responses from all 47 states (including the District of Columbia) that have approved 1915(c) waivers. BLS costs have remained the same since the previous June 2022 extension requests, and other cost estimates are updated to account for current wage estimates. Although the new survey has been consolidated with approximately one-third fewer questions

16. Publication/Tabulation Dates

CMS anticipates using findings from the survey to refresh guidance to states regarding incident management, and to generate training and technical assistance materials. These materials will include basic descriptive statistical analyses, including measures of central tendency for quantitative data, as well as qualitative analyses of free-form responses. They will also identify and explain promising practices in incident management systems identified

³ Sources for contractor labor categories used in this cost projection are listed below:

- [GSA Text Reference File for L&E](#)
- [GSA Text Reference File for Guidehouse Consulting](#)

⁴ [CMS Wage Table used to develop staff costs](#)

through review and analysis of the research conducted as part of the survey. Training and technical assistance materials, including CMS presentations at conferences and webinars, will report on:

- Methods for identifying, reporting, tracking, and resolving incidents of abuse, neglect, and exploitation,
- Methods for aggregating incident reports to identify and track trends,
- Performance metrics for preventing future incidents,
- Methods for detecting unnecessary and/or recurrent hospitalizations,
- Safeguards for ensuring that when individuals are the victims of abuse, neglect, or exploitation by HCBS providers, additional Medicaid funds are available to treat the individual to ameliorate the situation,
- Linkages of incident management systems with Medicaid fraud, waste, and abuse systems to determine whether abuse, neglect, or exploitation is associated with Medicaid fraud, waste, or abuse (e.g., a state's Medicaid fraud system detects fraud, waste, or abuse and the state performs a crosscheck with their incident management system to ensure abuse, neglect, or exploitation did not occur),
- Methods for ensuring the health and welfare of individuals receiving services from providers who have committed fraud, waste, or abuse; and,
- Strengths and challenges of states' incident management systems.

CMS will not use this data to issue a report that evaluates and/or ranks each state in comparison to the other states but rather to determine how best to assist states in creating good quality systems to offer protection from abuse, neglect and exploitation as well as fraud, waste and fiscal abuse.

17. Expiration Date

The expiration date is displayed along with the PRA Disclosure Statement.

18. Certification Statement

There is no exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-1.