



February 13, 2020

MEMORANDUM FOR STEPHANIE TATHAM

Desk Officer
Office of Information and Regulatory Affairs
Office of Management and Budget

FROM: JULIA K. HEARTHWAY 
Director, Office of Worker's Compensation Program

SUBJECT: Request for emergency processing for ICR
Reference number: 202002-1240-001.

The Department of Labor (Department) is seeking an emergency review and approval, under 5 C.F.R. 1320.13, of the attached Form OWCP-1168, which is associated with OMB Control Number 1240-0021. The Department's Office of Workers' Compensation Programs (OWCP) is the agency responsible for administration of the Federal Employees' Compensation Act (FECA), 5 U.S.C. 8101 et seq., the Black Lung Benefits Act (BLBA), 30 U.S.C. 901 et seq., and the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA), 42 U.S.C. 7384 et seq. These statutes require OWCP to pay for appropriate medical and vocational rehabilitation services provided to beneficiaries. In order for OWCP's medical bill processor to reimburse medical providers, providers must enroll with one or more of the OWCP programs that administer the statutes by submitting certain profile information, including identifying information, tax I.D. information, and specialty or sub-specialty training. Form OWCP-1168, the Provider Enrollment Form, is used to obtain this information from each provider. If this information is not obtained and the provider not "enrolled" before the provider submits the first bill for reimbursement, bill processing is substantially prolonged, increasing the burden on, and delaying reimbursement to, providers. The regulations implementing the above statutes that OWCP administers permit the collection of information necessary to allow its billing contractor to process and pay bills submitted by providers of medical and vocational rehabilitation services. (20 CFR 10.801, 30.701, 725.704, 725.705 and 725.714).

In addition to the enrollment form, OWCP currently requires electronic data interchange (EDI) information to be provided on a separate form. Once the new OWCP 1168 form is in place, the existing EDI form will no longer be required. The current EDI form collects information that is duplicative to information collected on Form OWCP 1168, such as names, addresses, and NPI. Collecting EDI information with the enrollment information in one form will improve efficiency in collecting the information from providers, reduce the time required for processing by operational staff, and significantly reduce errors associated with mismatching provider enrollments to their EDI information.

In order to facilitate implementation of FECA Bulletin No. 18-05, DFEC requested that prospective providers disclose individual's ownership interest (5 percent or more) or involvement (officer, director, and agent) in a medical company providing services/supplies to the FECA program. OWCP included the request for ownership information in the Provider Enrollment Form (1168) to identify potentially fraudulent providers, as well as those that may be associated with excluded, suspended, or debarred providers. Collecting this information will help OWCP to prevent inappropriate payments, protect beneficiaries, and reduce time-consuming and expensive "pay and chase" activities by identifying providers that may intend to engage in fraudulent or abusive activities. This decision is also supported by findings from the Department of Health and Human Service's Office of the Inspector General (OIG) on vulnerabilities related to provider enrollment and ownership disclosure in regards to Medicare (<https://oig.hhs.gov/oei/reports/oei-04-11-00591.asp>).

There has been an increase in the number of respondents seeking to provide medical or vocational services to beneficiaries. Accordingly, the burden hours increased from 4,252 to 8,555, an adjustment of 4,303 hours, and the operational and maintenance costs increased from \$16,629 to \$33,449, an adjustment of \$16,820.

Use of the new enrollment form is inextricably linked to the implementation of the new medical bill processing operation. Changes to business needs and priorities beyond OWCP's control, to address the prescribing of opioid medications, have already impacted the previously-scheduled go-live. Approval of this emergency process request is needed by March 14, 2020, to allow the posting of the form on a web portal the following day, which will facilitate provider enrollment and provide procedural instructions that support the new bill processor's assumption of operations on April 27, 2020. Obtaining the approval of the request is critical, because if the March 14, 2020 date is not met, the new bill processor will not be able to enroll new medical providers for reimbursement or complete collection of new information for existing providers, to allow online bill status updates. This would, in turn, place significant additional burden on OWCP claimants by possibly preventing them from receiving medical services and reducing the ability to obtain medical providers within their geographical area.

OWCP also has a legal obligation to enable the new bill processor to be fully operational by April 27, 2020. New regulations governing payment of certain categories of medical bills under the BLBA become applicable on April 26, 2020. Because the regulations adopt different payment formulas, these bills cannot be processed under the current system. OWCP has extended this applicability date once (*see* 84 Fed. Reg. 64197 (Nov. 21, 2019)), and would have difficulty extending it again.

Thus the result of any approval delay beyond March 14, 2020 would necessitate a delay in operations go-live until the OWCP-1168 form is approved. OWCP would be forced to continue using the incumbent bill processor at an additional cost of \$2.51 million per month to the incumbent, and an additional \$1.3 million per month for the new vendor to cover operational delays. Any increased costs and operational impacts resulting from delayed approval would also likely result in Congressional inquiries.

For these reasons, the Department seeks emergency processing of Form OWCP-1168. The Department requests that OMB approve the form for use by March 14, 2020, and waive publication of an emergency collection under 5 C.F.R 1320.13(d). During the 90-day period of approval for the emergency collection, the Department will undertake the steps necessary for approval of the collection under the normal clearance procedures as required by the PRA.