



**Health Services**  
LOS ANGELES COUNTY

September 17, 2009

#8

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Centers for Medicare and Medicaid Services (CMS)  
Office of Strategic Operations and Regulatory Affairs  
Division of Regulations Development  
7500 Security Boulevard, Room C4-26-05  
Baltimore, Maryland 21244-1850

Attention: CMS-10079/OMB# 0938-0907

Dear Ms. Taimyra Jones,

In the recent Federal Register issued on September 4, 2009 (Attachment I), there was a revision of a currently approved collection titled "Hospital Wage Index Occupational Mix Survey and Supporting Regulations in 42 CFR, Section 412.64".

We disagree with the proposed collection time period of the calendar year of January 1, 2010 to December 31, 2010. The previous survey was for the period July 1, 2007 through June 30, 2008 which coincided with our cost reporting fiscal year. We believe this time period would be more reasonable for our facilities since the occupational mix is ultimately applied to our wage index data and thereby we would have a consistent application of wage data and factors.

In the supporting statement (Attachment II), it indicates that CMS did not solicit comments in the FY 2010 IPPS proposed rule (74 FR 24137) and therefore we were not given a prior opportunity to comment on this revision. We request that CMS allows the facilities to have an option to complete based on the July 1st through June 30th time period.

Thank you for this opportunity to comment. If you have any questions, please call me or Linda Quon of my staff at (213) 240-8151.

Sincerely,

Helen Jew  
Chief, Program Audits and Reimbursement Division  
County of Los Angeles – Department of Health Services

HJ:lq

Attachments

c: Anita Lee  
Allan Wecker  
Lily Wun-Nagaoka  
Zorica Tanaskovic  
Expenditure Managers

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mine workers were asked to identify those postures that are least and most

comfortable/stressful. There is no cost to respondents other than their time. The

total estimated annual burden hours are 12.

## ESTIMATED ANNUALIZED BURDEN HOURS

Respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Continuous miner operator .....	Continuous Miner Operator Form .....	5	1	10/60
Foreman .....	Foreman Form .....	5	1	10/60
Maintenance Shift Worker .....	Maintenance Shift Worker Form .....	10	1	10/60
Mobile Bridge Operator .....	Mobile Bridge Operator Form .....	10	1	10/60
Roof Bolter Operator .....	Roof Bolter Operator Form .....	14	1	10/60
Scoop Operator .....	Scoop Operator Form .....	6	1	10/60
Shuttle Car Operator .....	Shuttle Car Operator Form .....	6	1	10/60
Mechanic .....	Mechanic Form .....	6	1	10/60
Beltman .....	Beltman Form .....	2	1	10/60

Dated: August 27, 2009.

**Maryam I. Daneshvar,**

*Acting Reports Clearance Officer, Centers for Disease Control and Prevention.*

[FR Doc. E9-21376 Filed 9-3-09; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[Document Identifier: CMS-10079 and CMS-10293]

#### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Hospital Wage

Index Occupational Mix Survey and Supporting Regulations in 42 CFR, Section 412.64; *Use:* Section 304(c) of Public Law 106-554 amended section 1886(d)(3)(E) of the Social Security Act to require CMS to collect data every 3 years on the occupational mix of employees for each short-term, acute care hospital participating in the Medicare program, in order to construct an occupational mix adjustment to the wage index, for application beginning October 1, 2004 (the FY 2005 wage index). The purpose of the occupational mix adjustment is to control for the effect of hospitals' employment choices on the wage index. Refer to the summary of changes document for a list of current changes. *Form Number:* CMS-10079 (OMB#: 0938-0907); *Frequency:* Reporting—Yearly, Biennially and Occasionally; *Affected Public:* Private Sector—Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 3,522; *Total Annual Responses:* 3,522; *Total Annual Hours:* 1,690,560. (For policy questions regarding this collection contact Taimyra Jones at 410-786-1562. For all other issues call 410-786-1326.)

2. *Type of Information Collection Request:* New Collection; *Title of Information Collection:* Tribal Consultation State Plan Amendment Template; *Use:* Effective July 1, 2009, section 5006 of the American Recovery and Reinvestment Act of 2009 (Recovery Act) amended section 1902(a)(73) of the Act to require that certain States utilize a process for the State to seek advice on a regular, ongoing basis from designees of the Indian Health Service (IHS) and Urban Indian Organizations concerning Medicaid and Children's Health Insurance Program (CHIP) matters having a direct effect on them. The consultation process is required for the 37 States in which 1 or more Indian

Health Programs or Urban Indian Organizations furnish health care services. The State Medicaid agency for each of these States will complete the template page and submit it for approval as part of a State plan amendment, to document how it meets the requirements for tribal consultation. *Form Number:* CMS-10293 (OMB#: 0938-NEW); *Frequency:* Reporting—Once and occasionally; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 37; *Total Annual Responses:* 37; *Total Annual Hours:* 37. (For policy questions regarding this collection contact Mary Corddry at 410-786-6618. For all other issues call 410-786-1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site at <http://www.cms.hhs.gov/PaperworkReductionActof1995>, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to [Paperwork@cms.hhs.gov](mailto:Paperwork@cms.hhs.gov), or call the Reports Clearance Office on (410) 786-1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by November 3, 2009:

1. *Electronically.* You may submit your comments electronically to <http://www.regulations.gov>. Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development,

Attention: Document Identifier/OMB Control Number, Room C4-26-05, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

Dated: August 28, 2009.

**Michelle Shortt,**

*Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. E9-21425 Filed 9-3-09; 8:45 am]

BILLING CODE 4120-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[Document Identifier: CMS-10285]

#### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Request for Expedited Review of Denial of Premium Assistance; *Use:* The American Recovery and Reinvestment Act of 2009 provides for premium assistance and expanded eligibility for health benefits under both the Consolidated Omnibus Budget Reconciliation Act of 1986, commonly called COBRA, and comparable State continuation coverage programs. This premium assistance is not paid directly to the covered employee or the qualified beneficiary, but instead is in the form of a tax credit for the health plan, the employer, or the

insurer. "Assistance eligible individuals" pay only 35% of their continuation coverage premiums to the plan and the remaining 65% is paid through the tax credit.

If an individual requests treatment as an assistance eligible individual and the employee's group health plan, employer, or insurer denies him or her the reduced premium assistance, the Secretary of Health and Human Services must provide for expedited review of the denial upon application to the Secretary in the form and manner the Secretary provides. The Secretary is required to make a determination within 15 business days after receipt of an individual's application for review.

The *Request for Review If You Have Been Denied Premium Assistance* (the "application") is the form that will be used by individuals to file their expedited review appeals. Each individual must complete all information requested on the application in order for CMS to begin reviewing his or her case. An application cannot be reviewed if sufficient information is not provided. Refer to the supporting document "Crosswalk of Changes Between Request for Expedited Review of Denial of Premium Assistance (4/09) and Request for Review if You Have Been Denied Premium Assistance (6/09)" for a list of changes: *Form Number:* CMS-10285 (OMB#: 0938-1062); *Frequency:* Reporting—Once; *Affected Public:* Individuals and households; *Number of Respondents:* 12,000; *Total Annual Responses:* 12,000; *Total Annual Hours:* 12,000. (For policy questions regarding this collection contact Jim Mayhew at 410-786-9244. For all other issues call 410-786-1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web site address at <http://www.cms.hhs.gov/PaperworkReductionActof1995>, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to [Paperwork@cms.hhs.gov](mailto:Paperwork@cms.hhs.gov), or call the Reports Clearance Office on (410) 786-1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received by the OMB desk officer at the address below, no later than 5 p.m. on October 5, 2009: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395-6974, E-mail: [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov).

Dated: August 28, 2009.

**Michelle Shortt,**

*Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. E9-21423 Filed 9-3-09; 8:45 am]

BILLING CODE 4120-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

[60Day-09-0818]

#### Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404-639-5960 and send comments to Maryam I. Daneshvar, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS-D74, Atlanta, GA 30333 or send an e-mail to [omb@cdc.gov](mailto:omb@cdc.gov).

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

#### Proposed Project

Cost and Follow-up Assessment of Administration on Aging (AoA)-Funded Fall Prevention Programs for Older Adults—Extension—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

#### Background and Brief Description

CDC received OMB approval for Control number 0920-0818 to collect data for the Cost and Follow-up

## Supporting Statement For Paperwork Act Submissions

### A. Background

Section 304(c) of Public Law 106-554 amended section 1886(d) (3) (E) of the Social Security Act to require CMS to collect data every 3 years on the occupational mix of employees for each short-term, acute care hospital participating in the Medicare program, in order to construct an occupational mix adjustment to the wage index, for application beginning October 1, 2004 (the FY 2005 wage index). The purpose of the occupational mix adjustment is to control for the effect of hospitals' employment choices on the wage index. For example, hospitals may choose to employ different combinations of registered nurses, licensed practical nurses, nursing aides, and medical assistants for the purpose of providing nursing care to their patients. The varying labor costs associated with these choices reflect hospital management decisions rather than geographic differences in the costs of labor.

On April 4 and September 19, 2003, respectively, a proposed and final notice appeared in the *Federal Register* (68 FR 16516 and 54905) of CMS's intent to begin collecting occupational mix data from hospitals using the Medicare Wage Index Occupational Mix Survey, Form CMS-10079 (the 2003 survey). In the FY 2005 hospital inpatient prospective payment system final rule (IPPS, 69 FR 49034, August 11, 2004), CMS provided a full discussion of the 2003 survey and the application of the occupational mix adjustment to the FY 2005 wage index. The notice also included a summary of public comments and suggestions for improving the occupational mix survey. Similar comments and suggestions were received for the FY 2006 wage index (70 FR 47365).

On October 14, 2005, a notice appeared in the *Federal Register* (70 FR 60092) announcing CMS's proposed 2006 occupational mix survey, which included modifications intended to address commenters' concerns and suggestions. On February 10, 2006 a notice appeared in the *Federal Register* (71 FR 7047) announcing CMS's final 2006 occupational mix survey. The 2006 survey provided for the collection of hospital-specific wages and hours data, a 6-month prospective reporting period (January 1, 2006 through June 30, 2006). Although the 2006 survey expanded the RN category to include functional subcategories, it significantly reduced the number of discrete occupational categories that hospitals had to report. Data for advance practice nurses were excluded from the survey altogether while 6 fewer general occupational categories are discreetly reported (they are now included in the "all other occupations" category) because they are no longer part of the occupational mix adjustment.

CMS originally planned to apply the results of the 2006 survey beginning with the FY 2008 wage index. However, on April 3, 2006, in Bellevue Hosp. Ctr v.

**B. Justification**

1. Need and Legal Basis

Section 304(c) of Public Law 106-554 mandates an occupational mix adjustment to the wage index, requiring the collection of data every 3 years on the occupational mix of employees for each short-term, acute care hospital participating in the Medicare program. The proposed data collection that is included in this submission complies with this statutory requirement.

2. Information Users

Each of the approximately 3,522 IPPS providers participating in the Medicare program will be required to complete the 2010 Medicare Wage Index Occupational Mix Survey. The survey will be forwarded to hospitals through CMS's Medicare contractors and will be made available on CMS's web site.

3. Use of Information Technology

The Medicare contractors will be required to forward the survey, an electronic spreadsheet, to each IPPS provider via email. Once the provider has completed the survey, the provider will transmit the survey back to the Medicare contractors, who in turn will forward the survey to CMS.

4. Duplication of Efforts

There is no duplication of efforts.

5. Small Businesses

The collection of the occupational mix survey will affect the approximately 3,522 IPPS providers participating in the Medicare program. The providers will be required to submit the requested Medicare Wage Index Occupational Mix Survey every three years, as opposed to the submission of the current cost report wage data, which is submitted annually.

6. Less Frequent Collection

Section 304 of Public Law 106-554 requires CMS to collect occupational mix data no less than every three years. Failure to collect this data will result in CMS being in default of this mandate.

7. Special Circumstances

There are no special circumstances.

8. Federal Register/Outside Consultation

CMS provided public notifications of the 2003 occupational mix survey in the Federal Register on April 4, 2003 (68 FR 16516), September 19, 2003 (68 FR 54905), May 18, 2004 (69 FR 28252), and August 11, 2004 (69 FR 49034). In response to those notices, CMS received several suggestions for improving the survey, from MedPAC, national and State hospital associations, hospitals, and others. CMS received additional comments and suggestions from the public after stating in the FY 2006 IPPS proposed rule (70 FR 23371, May 4, 2005) the agency's intent to revise the occupational mix survey for future data collections. CMS developed a new 2006 occupational mix survey that included the suggested improvements (70 FR 60092 and 71 FR 7047). In response to the FY 2007 IPPS proposed rule, we received additional comments for improving the survey. Based on public comments, CMS issued the 2007/2008 occupational mix survey to make further improvements to the occupational mix survey. Although CMS did not solicit comments in the IPPS FY 2010 IPPS proposed rule (74 FR 24137), we received several public comments with suggestions for improving the next update of the occupational mix survey.

9. Payments/Gift to Respondents

There are no payments/gifts to respondents.

10. Confidentiality

This collection is public information. CMS does not assure confidentiality.

11. Sensitive Questions

There are no sensitive questions.

12. Burden Estimates (Hours & Wages)

We do not collect survey data for hospitals that become designated as critical access hospitals (CAHs) and for hospitals that terminated participation in the Medicare program. Currently, there are approximately 3,522 short-term and acute care hospitals in the Medicare program.

The occupational mix data for a 1-year collection period will be collected from payroll periods beginning on or after January 1, 2010 and on or before December 31, 2010. We estimate the time associated with collecting the occupational mix data and submitting the data electronically to intermediaries to be 60 working days (60 days x 8 hours per day= 480 hours). We estimate 1,690,560 total burden hours for the 1-year collection period (that is 3,522 hospitals x 480 hours= 1,690,560). When computed, assuming a current salary of \$25 per hour plus 20

percent for fringe benefits (\$30 per hour x 480 hours per hospital), the estimated cost of burden for the 12-month collection period is \$14,400 per hospital.

13. Capital Costs

We do not expect hospitals to have any capital costs associated with this revised collection effort. The information that hospitals provide should already be available through their existing systems.

14. Cost to Federal Government

The Medicare contractors will be responsible for reviewing the survey, once received from the hospitals.

An auditor (Medicare contractor) review of each hospital's occupational mix survey data for the 1-year collection period should take approximately 5 hours. When computed, 3,522 hospitals x 5 hours fiscal intermediary review per hospital x \$30 per hour plus 20 percent for fringe benefits (Auditor/Financial Analyst average hourly wage (AHW) based on annual salary of \$50,000 [estimated from Occupational Employment Statistics survey]), the Federal cost is approximately \$633,960.

15. Changes to Burden

We do not require the occupational mix survey data to be completed by hospitals that have become designated as CAHs or hospitals that have terminated participation in the Medicare program. For the 2007/2008 occupational mix survey, we estimated that 3,600 hospitals would need to complete the survey based on the wage information that we collected at that time for the annual IPPS update. Currently, there are approximately 3,522 short-term and acute care hospitals participating in the Medicare program. We based this estimate on the number of hospitals that submitted wage index information for the FY 2010 IPPS rule.

The 2010 survey will provide for the collection of hospital-specific wages and hours data for a 1-year reporting period (that is, payroll periods beginning on or after January 1, 2010 and on or before December 31, 2010). The estimated burden hours for the 2010 Occupational Mix survey associated with a 1-year collection period will decrease from 1,728,000 hours to 1,690,560 hours because we estimate fewer hospitals will be required to submit the occupational mix survey. [For more details, please refer to the Medicare Wage Index Occupational Mix Survey- Summary of Changes.]

16. Publication/Tabulation Dates

The information provided by the survey will be made public through the CMS public use file website and the proposed and final rules in the Federal Register for fiscal year FY 2010.

17. Expiration Date

CMS would like an exemption from displaying the expiration date as these forms are used on a continuing basis. To include an expiration date would result in having to discard a potentially large number of forms.

18. Certification Statement

There are no exceptions to the certification statement.

C. Collection of Information Employing Statistical Methods

There are no statistical methods.



## Medicare Wage Index Occupational Mix Survey – Summary of Changes

### Reporting Period

We refined the reporting period to the following: “01/01/2010 – 12/31/2010.\*” The reporting period has been modified due to commenters’ recommendation.

### Introduction

1. Under paragraph two, we refined the instructions to include the following statement:  
“This survey provides for the collection of occupational mix data for a 1-year collection period, that is, from payroll periods beginning on or after January 1, 2010 and on or before December 31, 2010, to be applied to the FY 2013 wage index.” The instructions were modified due to commenters’ recommendation.
2. Under paragraph three, we refined the instructions to the following statement:  
“Completed occupational mix surveys must be submitted to fiscal intermediaries and/or Medicare administrative contractors, on the Excel hospital reporting form, by July 1, 2011, via email attachment or overnight delivery. The Excel version of the occupational mix survey may be obtained from fiscal intermediaries or downloaded from CMS’s website...” The instructions were modified to update the submission date.

### Footnote

We refined the footnote to state the following: “Also, hospitals that terminated participation in the Medicare program before July 1, 2009 are not required to complete the survey.” This is an update to the date for terminated providers.

### Survey Instrument

We refined the reporting period to state the following: “Payroll Periods Ending Between 01/01/2010 – 12/31/2010.” The reporting period has been modified due to commenters’ recommendation.

Leavitt, the Court of Appeals for the Second Circuit ("the Court") ordered CMS to apply the occupational mix adjustment to 100 percent of the wage index effective for Federal fiscal year ("FY") 2007. The Court required CMS to "immediately ... collect data that are sufficiently robust to permit full application of the occupational mix adjustment." The Court also required that all "data collection and measurement and any other preparations necessary for full application should be complete by September 30, 2006, at which time we instruct the agency to immediately apply the adjustment in full." 2006 WL 851934 at \*13.

To comply with the Court's order, CMS immediately notified hospitals to submit occupational mix data for the first 3 months of the 6-month time frame previously announced for the 2006 survey, so that the new survey data could be applied to the FY 2007 wage index. CMS modified the FY 2007 IPPS proposed rule to announce that the occupational mix adjustment would be applied to 100 percent, rather than 10 percent of the FY 2007 wage index, and that the adjustment would be based on results from the new 2006 survey (see 71 FR 26844, May 17, 2006).

CMS received several public comments for the FY 2007 proposed rule requesting refinements of the occupational mix survey instructions and definitions. In calendar year 2008 we revised the occupational mix survey to address the concerns of comments received during the, February 2, 2007, 60-day *Federal Register* notice. The 2007/2008 survey provided for the collection of hospital-specific wages and hours data for a 1-year prospective reporting period (that is, from July 1, 2007 through June 30, 2008), additional clarifications to the survey instructions, the elimination of the RN subcategories, some refinements to the definitions for the occupational categories, and the inclusion of additional cost centers that typically provide nursing services. The 2007/2008 Medicare occupational mix survey is applied beginning with the FY 2010 wage index.

Although CMS did not solicit comments in the IPPS FY 2010 proposed rule (74 FR 24137), we received several public comments with suggestions for improving the next update of the occupational mix survey. Commenters recommended we use calendar year 2010 (that is, January 1, 2010 through December 31, 2010) instead of the 1-year prospective reporting period (July 1, 2007 through June 30, 2008). Commenters believe using calendar year versus the 1-year prospective reporting period will allow hospitals more time to develop their occupational mix data before submitting the data to the Medicare contractors and CMS for use in the FY 2013 wage index. Based on the comments received we are proposing to revise the 2007/2008 occupational mix survey to address these concerns. The 2010 survey will provide for the collection of hospital-specific wages and hours data for calendar year 2010 (that is, payroll periods beginning on or after January 1, 2010 and on or before December 31, 2010). The 2010 Medicare occupational mix survey will be applied beginning with the FY 2013 wage index.