

United States Senate

WASHINGTON, DC 20510-4304

December 15, 2011

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

Attention: Document Identifier CMS-10417

Congress enacted the Paperwork Reduction Act (PRA) in part “to minimize the paperwork burden resulting from the collection of information by or for the Federal Government.” The proposed collection of information (“Medicare Fee-for-Service Prepayment Medical Review”) would create a substantial new paperwork burden on providers and suppliers. Among other things, CMS supporting documentation posits an increase of 900,000 prepayment medical reviews each year.

As I understand it, nearly one-half of Medicare beneficiaries could be affected by this demonstration. It could threaten substantial health care industry job losses, and jeopardize access to necessary equipment for Medicare beneficiaries.

In reviewing the CMS request, one does not find an assessment of the necessity of the demonstration or of its associated burdens on stakeholders. The quality, utility, and clarity of the information to be collected during the demonstration aren’t discussed. Also missing is substantiation of efforts to minimize the demonstration’s burden on those who are to respond.

CMS is seeking emergency review without providing sufficient justification for depriving the public of the right to a proper notice and comment period. CMS would allow the public only seven days for public comment (until today, December 15) and requests OMB approval by December 19, 2011. Contrary to CMS assertion, the anticipated effects noted above make it more likely that public harm would follow from OMB approval of the CMS request.

CMS references a “pilot prior authorization” program and a “pilot early [prepayment] review” program, but provides no detail regarding such programs. This suggests blanket authorization from OMB to conduct “pilot” programs, now and in the future, without accountability for the specifics of the programs related to paperwork clarity and burden.

CMS fails to provide adequate justification for its request, including the truncated public comment period. CMS should withdraw its request. In all events, OMB should not approve the CMS request.

Sincerely,

A handwritten signature in purple ink, reading "Kay Bailey Hutchison". The signature is fluid and cursive, with a large initial "K" and a long, sweeping underline.

Kay Bailey Hutchison