

# THE MEDICARE COST CONTRACTORS ALLIANCE


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## MEMORANDUM

Sent via email [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov)

**TO:** CMS Desk Officer  
Office of Information and Regulatory Affairs  
Office of Management and Budget

**FROM:** Mark S. Joffe, Esq. 

**RE:** Form Number: CMS- 10636 (OMB control number 0938- New)

**DATE:** August 17, 2017

The Medicare Cost Contractors Alliance (“Cost Alliance”) is submitting these comments in response to the proposed agency information collection activity under the Paperwork Reduction Act of 1995. The Alliance is a coalition of ten Medicare cost plans that currently provide services to over 600,000 Medicare beneficiaries who are enrolled in their plans. Medicare cost plans operate under Section 1876 of the Social Security Act and are subject to the network accessibility requirements that are the subject of this notice.

One of the ongoing challenges that Medicare cost plans have had over the years is understanding which requirements that are explicitly identified as applying to the “Medicare Advantage” program also apply to the Medicare cost plan program. Because the statutory authority for these programs is different, requirements applicable to the Medicare Advantage program do not necessarily apply to the Medicare cost plan program.

One reason for confusion among cost plan staff is CMS’ use of the term “Medicare Advantage” in the title to a guidance document where CMS also intends the document to apply to Medicare cost plans. This issue is illustrated by some of the underlying documents that support this proposal, such as “CY 2018 Medicare Advantage Health Service Delivery Exception Request Template” and “Three-Year Network Adequacy Review for Medicare Advantage Organizations.” Also, the two “Notices of Entire Network Review” specifically refer to MAOs in the body of the letter.

We recognize that the narrative within some of the documents does explain their applicability to Medicare cost plans. However, the document headings and other parts of the text inappropriately mislead cost plan staff to question their applicability.

The Alliance requests that CMS, in its guidance, adopt nomenclature that clearly identifies requirements that are applicable to Medicare cost plans. We believe that in its Medicare Managed Care Marketing Guidelines CMS does an excellent job in using more general nomenclature to apply to all Medicare managed care programs while identifying, where appropriate, instances in which provisions do not apply to all plan types. The Cost Alliance recommends that CMS adopt a similar structure here and in future guidance.

Under current statutory authority, cost plans may continue to be offered indefinitely in areas in which the two MA plan competition test is not met. Because this test is not met in some areas where cost plans are offered, we believe our concerns are not temporary and merit being addressed.

Please contact me ([marksjoffe@gmail.com](mailto:marksjoffe@gmail.com)) if you would like to discuss our recommendation further.

cc: Theresa Wachtel, CMS  
Chris McClintick, CMS