Supporting Statement – Part A

Supporting Statement for Paperwork Reduction Act Submissions
Medicare Program: Home Health Face-to-Face Encounter Progress Note Templates

A. Background

The Centers for Medicare & Medicare Services (CMS) is requesting the Office of Management and Budget (OMB) approval of the collection of data required to support the eligibility of Medicare home health services. Home health services are covered under the Hospital Insurance (Part A) and Supplemental Medical Insurance (Part B) benefits of the Medicare program. It consists of part-time, medically necessary skilled care (nursing, physical therapy, occupational therapy, and speech-language therapy) that is ordered by a physician.

In 2011, a final rule (CMS-1510-F) was published that updated the Home Health Prospective Payment System (HH PPS) policy and implements a provision of the Affordable Care Act as a condition for payment. Section 6407 of the Affordable Care Act established a face-to-face encounter requirement for certification of home health services, by requiring that prior to certifying a patient's eligibility for the home health benefit, the physician must document that the physician or a permitted non-physician practioner (NPP) has had a face-to-face encounter with the patient. Additionally, the Affordable Care Act allows the Secretary to determine a reasonable timeframe for the encounter to occur. To implement the above provision of the Affordable Care Act, CMS finalized 42 CFR 424.22 (a)(1)(v) which requires that the physician responsible for performing the initial certification document that the face-to-face patient encounter occurred no more than 90 days prior to the home health start of care date or within 30 days of the start of the home health care.

CMS also implemented three changes to the face-to-face encounter requirements for episodes beginning on or after January 1, 2015. These changes reduce administrative burden and provide home health agencies with additional flexibilities in developing individual agency procedures for obtaining documentation support patient eligibility for Medicare home health care. The first change eliminated the narrative requirement. Due to the substantial increase in improper payments and concerns voiced by the home health industry, CMS eliminated the narrative requirement as part of the face-to-face documentation. However, the certifying physician is still required to certify that a face-to-face patient encounter occurred and document the date of the encounter as part of the certification of eligibility. For medical review purposes, CMS requires documentation in the certifying physician's medical records and/or the acute/post-acute care facility's medical records (if the patient was directly admitted to home health) to be used as the basis for certification of patient eligibility.

Second, if an HHA claim is denied, the corresponding physician claim for certifying/re-

certifying patient eligibility for Medicare-covered home health services is considered non-covered as well because there is no longer a corresponding claim for Medicare-covered home health services. Lastly, CMS clarified that a face-to-face encounter is required for certifications, rather than initial episodes; and that a certification (versus a re-certification) is generally considered to be at any time a new start of care assessment is completed to initiate care.

In April 2014, the HHS Office of Inspector General (OIG) released a report entitled "Limited Compliance with Medicare's Home Health Face-To-Face Documentation Requirements." In this report, the OIG recommended that CMS "should consider requiring a standardized form to ensure that physicians include all elements required for the face-to-face documentation." In an effort to comply with this requirement and with the aim to help reduce the amount of errors in submitting claims for home health services, CMS has developed a home health electronic template and a paper template to assist with documenting a home health face-to-face examination. CMS believes the use of the progress note templates may help assist physicians when documenting the home health (HH) face-to-face encounter for Medicare purposes.The use of these templates will be completely voluntary. They are intended only to assist physicians and other practitioners who order home health services in documenting the required elements in their progress notes.

B. Justification

1. Need and Legal Basis

In 2012, the Office of Inspector General (OIG) found through a medical record review that 98 percent of beneficiaries met Medicare coverage requirements for home health services. However, the OIG also found that HHAs submitted 22 percent of claims in error because services were not medically necessary or claims were coded inaccurately, resulting in $432 million in improper Medicare payments. The OIG concluded that given the general concern about risks to the Medicare program in the home health care, further investigations beyond the medical record review are needed to determine whether beneficiaries are eligible, services are furnished, and Medicare requirements for payment are met.

In fiscal year (FY) 2014, the Comprehensive Error Rate Testing (CERT) program found that more than half (51.4 percent) of the home health claims were paid improperly. Of the 1308 CERT-reviewed claim lines in error, approximately 90 percent were found to have insufficient documentation errors. The majority of these errors were due to inadequate documentation supporting the face-to-face requirement.

CMS has developed a list of clinical elements within a suggested electronic clinical template that would allow electronic health record vendors to create prompts to assist physicians when documenting the HH face-to-face encounter for Medicare purposes. Once completed by the physician, the resulting progress note or clinic note would be part of the medical

record.

2. Information Users

The primary users of these new clinical templates will be physicians and/ or allowed NPPs. The templates will help users to capture the necessary information needed to complete the face-to-face encounter documentation. This will help physicians and/ or allowed NPPs comply with Medicare policy requirements, thereby reducing the possibility of a home health claim not being paid because of failure to meet Medicare requirements.

3. Use of Information Technology

Physicians and/or allowed NPPs may use various information technologies to store these clinical record templates as long as they are consistent with the existing confidentiality in record-keeping regulations at 42 CFR 485.638.

4. Duplication of Efforts

These clinical templates are unique reporting forms that do not duplicate any other information collection forms. However, although pieces of information captured in these new clinical templates can be obtained from other sources (i.e. the beneficiary medical record) no other existing forms can be modified for this purpose. CMS as a whole does not collect the information in any existing format

5. Small Businesses

The use of these new clinical templates will not place a significant reporting burden on small business providers. Physicians and/or Medicare allowed NPPs already maintain the clinical information, regardless of format, in the beneficiary's medical record. Because the burden estimates for providers are directly related to patient care, we estimate that a smaller patient census will lead to a reduced burden since smaller businesses have fewer staff, fewer patients, and complete less data collection etc.

6. Less Frequent Collection

CMS policy requires that the physician responsible for performing the initial certification document that the face-to-face patient encounter occurred no more than 90 days prior to the home health start of care date or within 30 days of the start of the home health care. If physicians and/or allowed NPPs fail to document that the encounter occurred, their claim might not be paid. Additionally, less frequent information collection by a physician and/or an allowed NNP would impede efforts to establish compliance with the face-to-face encounter requirement.

7. Special Circumstances

Absent legislative amendments to the face-to-face encounter rule, we are unable to anticipate any circumstances that would change the elements in the clinical templates developed from this package.

8. Federal Register/Outside Consultation

The 60-day Federal Register notice published on August 12, 2015.

9. Payments/Gifts to Respondents

There will be no payments/gifts to respondents.

10. Confidentiality

Normal medical confidentiality practices are observed in accordance with 45CFR part 160, subparts A and E of part 164 of the HIPPA privacy rule.

11. Sensitive Questions

There are no questions of a sensitive nature associated with this information collection.

12. Burden Estimates (Hours & Wages)

Written Narrative

Sections 1814(a)(2)(C) and 1835(a)(2)(A) requires that, prior to certifying a patient as eligible for Medicare's home health benefit, the physician must document that the physician himself or herself or a permitted non-physician practitioner has had a face-to-face encounter (including through the use of tele-health services, subject to the requirements in section 1834(m) of the Act)", with the patient. Therefore, the burden associated with using these new clinical templates is the time and effort put forth by the physician or the Medicare allowed NPP. Furthermore, because the physician or an allowed NPP has always been required to review the clinical information needed for deciding whether or not to certify or recertify the patient for Medicare home health services, we estimate it would take one physician approximately 10 minutes to complete the electronic clinical template and approximately 15 minutes to complete the paper clinical template. We estimate that there are over 2 million physicians and/or allowed NPPs that will complete the beneficiary's certification eligibility annually based on our claims data; therefore, the total annual burden hours associated with using the electronic clinical template would be 488,712 hours per CY and 731,605 hours per CY year to complete the paper clinical template.

Physician Annual Burden for Completing the Electronic Clinical Template

Number Physician Certifications	2,926,420
Burden Hours (1/6 hour)	.167
Total Annual Burden Hours estimate	488,712

Physician Annual Burden for Completing the Paper Clinical Template

Number Physician Certifications	2,926,420
Burden Hours (1/4 hour)	.25
Total Annual Burden Hours estimate	731,605

13. Capital Cost

There are no additional capital costs.

14. Cost to Federal Government

There are no costs associated with this change to the Federal Government. The creation of these clinical templates for physician and/or Medicare allowed NPP use does not create additional federal level costs. The use of the templates created with this package is entirely voluntary and is intended only to assist the physician or allowable Medicare NPP in documenting patient eligibility.

15. Changes to Burden

This is a new information collection request.

16. Publication/Tabulation Dates

We do not plan to publish any of the information collected.

17. Expiration Date

This collection does not lend itself to the displaying of an expiration date.

18. Certification Statement

There are no exceptions to the certification statement.