

Supporting Statement Part A

D-SNP Enrollee Advisory Committee (CMS-10799, OMB 0938-1422)

Background

Paragraph (f) at 42 CFR 422.107 requires that any Medicare Advantage (MA) organization offering a D-SNP must establish one or more enrollee advisory committees in each State to solicit direct input on enrollee experiences. The establishment and maintenance of an enrollee advisory committee is a valuable beneficiary protection to ensure that enrollee feedback is heard by managed care plans and to help identify and address barriers to high-quality, coordinated care for dually eligible individuals. By soliciting and responding to enrollee input, plans can better ensure that policies and procedures are responsive to the needs, preferences, and values of enrollees and their families and caregivers. Federal regulations for other programs, such as the Programs of All-Inclusive Care for the Elderly (PACE) and Medicaid managed care plans that cover LTSS include requirements for stakeholder engagement and committees, including input from beneficiaries.

Any collection of information directly from MA organizations offering a D-SNPs regarding the enrollee advisory committee requirement § 422.107(f) will be included in a separate Paperwork Reduction Act package. However, we believe this requirement meets the definition of a collection of information as defined at 5 CFR 1320.3(c) for the following reasons. First, to meet this requirement, MA organizations offering D-SNPs need to solicit applicants for the committee from their D-SNP enrollees. Second, we anticipate that most D-SNPs will voluntarily prepare and distribute committee bylaws and have a recordkeeping system for meetings. The committees are also required to solicit input on, among other topics, ways to improve access to covered services and other topics specified at § 422.107(f). The Contract Year 2026 Policy and Technical Changes to the Medicare Advantage, Medicare Prescription Drug Benefit Programs, Medicare Cost Plan Program, and Programs of All-Inclusive Care for the Elderly Proposed Rule (December 10, 2024; 89 FR 99340) (CMS-4208-P, RIN 0938-AV40) proposes to add updates to the model of care described at 42 CFR 422.101(f) to this list of topics. This preceding list of PRA triggers should not be viewed as complete given the flexibilities offered. Instead, the list is intended to demonstrate that the requirements and burden under section 12 of this Supporting Statement are subject to the PRA.

A. Justification

1. Need and Legal Basis

We established paragraph (f) at § 422.107 under our authority at section 1856(b)(1) of the Act to establish in regulation other standards not otherwise specified in statute that are both consistent with Part C statutory requirements and necessary to carry out the MA program and our authority at section 1857(e) of the Act to adopt other terms and conditions not inconsistent with Part C as the Secretary may find necessary and appropriate.

2. Information Users

MA organizations with D-SNPs would use the information collected from enrollees in the enrollee advisory committee to help identify and address barriers to high-quality, coordinated care for enrollees. Any collection of information directly from MA organizations offering a D-SNP regarding the enrollee advisory committee requirement § 422.107(f) will be included in a separate PRA package. CMS is collecting data on D-SNP enrollee advisory committees as part of the CY 2025 Part C Reporting Requirements (OMB Control Number 0938-1054, CMS-10261).

3. Improved Information Technology

MA organizations can use automated, electronic, mechanical, or other technological collection techniques or other forms of information technology to collect data related to this information collection as long as the use of such techniques adheres to the regulations at § 422.107(f) and any other applicable laws and regulations.

4. Duplication of Similar Information

This information collection does not duplicate any other effort and the information cannot be obtained from any other source.

5. Small Businesses

There is no significant impact on small businesses.

6. Less Frequent Collection

This information collection requires an MA organization with a D-SNP to hold at least one enrollee advisory committee annually. We believe a less frequent collection would not provide MA organizations with enough information from enrollees to meaningfully achieve the objectives of identifying barriers to high-quality, coordinated care for dually eligible individuals.

7. Special Circumstances

There are no special circumstances to report, and no statistical methods will be employed. More specifically this collection:

- Does not require respondents to report information to the agency more often than quarterly;
- Does not require respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
- Does not require respondents to submit more than an original and two copies of any document;

- Does not require respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;
- Is not connected with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study;
- Does not require the use of a statistical data classification that has not been reviewed and approved by OMB;
- Does not include a pledge of confidentiality that is not supported by authority established in statute or regulation that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
- Does not require respondents to submit proprietary trade secret, or other confidential information, unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

8. Federal Register Notice/Outside Consultation

The 60-day Federal Notice (90 FR) published in the Federal Register on TBD.

9. Payments/Gifts to Respondents

This collection provides zero payments or gifts to MA organizations with D-SNPs. MA organizations benefit from establishing and maintain enrollee advisory committees by better ensuring that policies and procedures are responsive to the needs, preferences, and values of enrollees and their families and caregivers.

10. Confidentiality

Under the activities described in this Supporting Statement, CMS will not collect data from the MA organizations or the enrollee advisory committees. Any such data collection activities will be described in a separate supporting statement for the respective PRA package. CMS is collecting data on D-SNP enrollee advisory committees as part of the CY 2025 Part C Reporting Requirements (OMB Control Number 0938-1054, CMS-10261). Thus, CMS assurance of confidentiality is not applicable to this collection.

11. Sensitive Questions

These committees will address challenging topics related to plans and their enrollees, including potentially market-sensitive information related to potential changes in future plan benefits. We are not requiring plans to make these enrollee advisory committee agendas or materials publicly available since it could interfere with committee effectiveness.

12. Collection of Information Requirements and Associated Burden Estimates

Wage Estimates

To derive median costs, we are using data from the most current U.S. Bureau of Labor Statistics’ (BLS’s) National Occupational Employment and Wage Estimates for all salary estimates (http://www.bls.gov/oes/current/oes_nat.htm), which, at the time of drafting of this rule, provides May 2023 wages. In this regard, the following table presents BLS’ median hourly wage along with our estimated cost of fringe benefits and overhead (calculated at 100 percent of salary), and our adjusted hourly wage.

National Occupational Employment and Wage Estimates

Occupation Title	Occupation Code	Median Hourly Wage (\$/hr)	Fringe Benefits and Overhead (\$/hr)	Adjusted Hourly Wage (\$/hr)
Business Operation Specialists, All Other	13-1199	38.26	38.26	76.52

As indicated, we are adjusting our employee hourly wage estimates by a factor of 100 percent to account for fringe benefits and overhead costs that vary from employer to employer and because methods of estimating these costs vary widely from study to study. We believe that doubling the hourly wage to estimate total cost is a reasonably accurate estimation method.

Requirements and Associated Burden Estimates

As described in section II.A.3. of the May 2022 final rule, we finalized at § 422.107(f) that any MA organization offering a D-SNP must establish one or more enrollee advisory committees at the State level or other service area level in the State to solicit direct input on enrollee experiences. We also require that the committee include at least a reasonably representative sample of the population enrolled in the dual eligible special needs plan, or plans, or other individuals representing those enrollees and solicit input from these individuals or their representatives on, among other topics, ways to improve access to covered services.

The burden of establishing and maintaining an enrollee advisory committee is variable due to the flexibilities MA organizations would have to implement the requirements. We believe that D-SNPs should work with enrollees and their representatives to establish the most effective and efficient process for enrollee engagement; therefore, we chose not to establish the: (1) frequency; (2) location; (3) format; (4) participant recruiting and training methods; (5) number of committees (for example, one committee at the State level to serve all of the MA organization’s D-SNPs in that State or more than one committee); (6) utilization of existing committees which would meet the requirements of both §§ 438.110 and 422.107(f) (we expect this approach to be used by fully integrated dual eligible special needs plans (FIDE SNPs) and highly integrated dual eligible special needs plans (HIDE SNPs)); (7) use and adoption of telecommunications technology; and (8) other parameters. Instead, the only requirements in this rule for an MA organization offering one or more D-SNPs in a State is to establish and maintain one or more enrollee advisory committees that serve the D-SNPs offered by the MA organization and for that committee to solicit input on certain topics. The enrollee advisory committee(s) must include at least a reasonably representative sample of the population enrolled in the D-SNP(s), or other

individuals representing those enrollees. The enrollee advisory committee(s) may also advise managed care plans under title XIX of the Act offered by the same parent organization as the MA organization offering a D-SNP.

To determine the burden for MA organizations to establish the enrollee advisory committees, we reviewed two estimates from similar committees. First, the May 2016 final rule (81 FR 27778) estimated it will take 6 hours annually for a business operations specialist to establish and maintain the long-term services and supports (LTSS) member advisory committee requirement (§ 438.110) for Medicaid managed care plans.

Second, in 2021 we conducted an informal survey of the three South Carolina Medicare-Medicaid Plans (MMPs) under the capitated FAI demonstration that are required to conduct meetings quarterly and highly value their advisory committees. The MMPs surveyed estimated an annual average of 240 hours (or 60 hours per meeting) to recruit members and establish and maintain the committee. We expect these efforts to include outreach and communication to members, developing meeting agendas, scheduling participation of presenters, preparing meeting materials, identifying meeting location and technology, D-SNP staff attendance at the meeting, and disseminating enrollee feedback to D-SNP and MA organization staff. In December 2023 and January 2024, CMS led strategic discussions with 110 MA organizations that offer one or more D-SNPs. The purpose for these discussions was to gather feedback on how these organizations implemented the new enrollee advisory committee requirement in CY 2023. While we did not survey MA organizations regarding the number of hours it took to implement the enrollee advisory committees, this feedback helped us understand the initial implementation and identify lessons learned and challenges. We learned that MA organizations are employing a variety of methods and investing a varying amount of time in establishing and maintaining their enrollee advisory committees. MA organizations with enrollee advisory committees that experienced more successful participant recruitment and retention invested time in recruiting and retaining enrollee advisory committee participants, such as using multiple outreach methods to recruit prospective enrollee advisory committee participants, including direct phone calls; over-recruiting the number of enrollee advisory committee participants to ensure a representative sample of enrollees at every meeting; and continued engagement with recruits via phone calls and texting in advance of the enrollee advisory committee meeting. Meeting frequency also varied with some MA organizations holding only one meeting per year to others holding them quarterly or more frequent. We outlined some lessons learned from these strategic conversations in a June 18, 2024 memo.¹

Due to the variety of flexibilities in creating the enrollee advisory committee and strategic discussions showing a range of activities and level of effort among MA organizations, detailed previously in this section, we continue to expect the average time and annual cost for an MA organization to establish and hold an enrollee advisory committee meeting(s) to be somewhere between 6 hours estimated for the requirement at § 438.110 and 240 hours as reported by MMPs. We believe this large difference in the time spent comes from two sources: (1) the committees created by MA organizations must meet at least once per year but have broad flexibility to meet

¹CMS, HPMS Memorandum, “Lessons Learned from Dual Eligible Special Needs Plans Enrollee Advisory Committee Strategic Conversation”, June 18, 2024. Retrieved from: <https://www.cms.gov/about-cms/information-systems/hpms/hpms-memos-archive-weekly/hpms-memos-wk-3-june-17-21>

more often and (2) MA organizations find value in their committees and have invested more staff and resources to recruit enrollees, and prepare for and hold meetings. With this understanding that a wide variety of approaches would be used, we estimate that on average a business compliance officer will spend 40 hours at a cost of \$3,428 (40 hr x \$85.70/hr for a business operation specialist) to establish and hold enrollee advisory committee meetings.

We believe all FIDE SNPs and HIDE SNPs that provide LTSS currently have an enrollee advisory committee since they have a Medicaid managed care plan that must comply with § 438.110. We are updating these estimates from the previous estimates based on the increase in D-SNP PBP for contract year 2024. There were 857 D-SNP PBPs in 2024. Based on 2022 (most recent data available), we estimate 800 D-SNPs do not have a corresponding Medicaid managed care plan that provides LTSS. Several of these D-SNP PBPs are in the same State and under the same contract, which means only one enrollee advisory committee is necessary to meet the requirement. Therefore, using 2024 data, we estimate MA organizations operating D-SNPs will need to establish and maintain 398 (857 D-SNP PBPs minus 57 PBPs in D-SNP contracts that provide LTSS minus 402 PBPs under the same contract in the same State) enrollee advisory committees.

Thus, the aggregate minimum annual burden for MA organizations operating D-SNPs to meet the requirements of § 422.107(f) is 15,920 hours (398 committees x 40 hr per committee) at a cost of \$1,364,344 (15,920 hr x \$76.52/hr).

Burden Summary

Regulation Section in Part 42 of the CFR	Item	Number of respondents	Responses per respondent	Total Responses	Time per Response (hours)	Total Time (hours)	Hourly Labor Cost (\$)		Total Cost Subsequent years (\$)
422.107(f)	Conduct enrollee advisory committee	398 D-SNPs	1	398	40	15,920	76.52		1,218.198

13. Capital Costs

There are no capital costs.

14. Cost to the Federal Government

To support D-SNPs in establishing enrollee advisory committees that meet the objective of this rule in achieving high-quality, comprehensive, and coordinated care for dually eligible individuals, CMS has leveraged the body of technical assistance developed for MMPs. For example, CMS previously sponsored a series of webinars and other written technical assistance to help enhance MMPs’ operationalization of these committees.² CMS will be able to realize efficiencies by repurposing and building on these resources. Based on the existing technical

² Resources for Integrated Care and Community Catalyst, “Member Engagement in Plan Governance Webinar Series”, 2019. Retrieved from: <https://www.resourcesforintegratedcare.com/article/member-engagement/>.

assistance contracts held by CMS, we estimate an annual cost to the Federal government of \$15,000.

15. Program/Burden Changes

For the revised burden estimate, we updated the estimated number of respondents from 310 D-SNPs to 398 D-SNPs. The main driver for the change in estimated number of respondents is the growth in the number of D-SNPs as explained in section 12 of this Supporting Statement.

We also updated the labor cost for the currently approved burden to median labor costs for May 2021 (https://www.bls.gov/oes/2021/may/oes_nat.htm), consistent with the current requirement to use median labor costs.

Summary of Burden Changes

	Regulation Section in Part 42 of the CFR	Item	Number of respondents	Responses per respondent	Total Responses	Total Time (hours)	Labor Cost (\$/hr)	Total Cost (\$)
Currently Approved Burden	422.107 (f)	Conduct enrollee advisory committee	310 D-SNPs	(1)	(310)	(12,400)	71.80	(890,320)
Revised Burden	422.107 (f)	Conduct enrollee advisory committee	398 D-SNPs	1	398	15,920	76.52	1,218,198
TOTAL			88 D-SNPs	0	88	3,520	n/a	327,878

16. Publication/Tabulation Dates

CMS does not intend to publish data related this collection of information.

17. Expiration Date

CMS will display the expiration date and OMB approval number on the CMS website.

18. Certification Statement

No exception to any section of OMB Form 83-I is requested.

B. Collections of Information Employing Statistical Methods

This collection does not employ statistical methods.