

Supporting Statement Part A
Disclosure of Eligibility Criteria for Supplemental Benefits for the Chronically Ill (SSBCI)
(CMS-10915, OMB 0938-TBD)

Note: This is a new collection of information request. At this time the OMB control number has yet to be determined (TBD) but will be issued by OMB upon their clearance of this proposed collection of information request. CMS will include that number in the subsequent CMS-4208-F final rule. OMB will issue the control number's expiration date upon their approval of the final rule's collection of information request. The issuance of that date can be monitored at www.Reginfo.gov.

Background

The Centers for Medicare and Medicaid Services (CMS) established a requirement for plans to have eligibility criteria for enrollees who receive special supplemental benefits for the chronically ill (SSBCI) under the authority described at 42 CFR 422.102(f)(4). Specifically, at 42 CFR 422.102(f)(4)(iii)(C) plans must “For each SSBCI, the MA plan must list all the written policies and objective criteria on which the policies are based as noted in paragraph (f)(4)(i) of this section on their public facing website.” This is a new collection of information in accordance with the proposal of our provision in the Notice of Proposed Rulemaking.

This new requirement will allow enrollees to review and determine whether they may be eligible for SSBCI. Plans may heavily market certain SSBCI and this new requirement provides enrollees the ability to ensure they are eligible for SSBCI which may improve or maintain the health or function of the enrollee. Since plans are also required to “Maintain without modification, as it relates to an SSBCI, evidentiary standards for a specific enrollee to be determined eligible for a particular SSBCI, or the specific objective criteria used by a plan as part of SSBCI eligibility determinations for the full coverage year” as set forth in 42 CFR 422.102(f)(4)(v), this also ensures a level of assurance to enrollees and CMS that plans are consistent how they offer SSBCI and determine eligibility. This information will be useful to CMS in performing audits and compliance reviews regarding SSBCI eligibility determinations.

This iteration is associated with our November 26, 2024 (date of public inspection) proposed rule (CMS-4208-P, RIN 0938-AV40). The rule would add an annual burden of 1,522 hours and \$190,981 for 791 plans.

There are no collection of information instruments or instruction beyond what is published in the proposed rule.

See section 12 of this Supporting Statement for details.

A. Justification

1. Need and Legal Basis

In accordance with 42 CFR 102(f)(4) each MA organization under Part C Medicare is required to “list all the written policies and objective criteria on which the policies are based as noted in paragraph (f)(4)(i) of this section on their public facing website.”

Further information about the need for such changes is included in the Background section.

2. Information Users

We anticipate there will be a number of information users of this eligibility criteria. They include CMS staff that use this information to monitor health plans and to hold them accountable for their performance.

CMS users include group managers, division managers, branch managers, account managers, and researchers.

Contracted and non-contracted providers, agents, brokers and other plan-affiliated individuals will also likely use this information to review plan performance and ensure consistency with how SSBCI are conducted.

Finally, enrollees may use this information in ensuring they may be eligible for certain SSBCI prior to enrollment, or to ensure the plan has acted consistently with their policies after an enrollee has received a benefit.

3. Use of Information Technology

Plans must post this information on a public facing website. Plans are given flexibility to determine how and where specifically this information may appear in the website however. Plans must not restrict access to this information as it will be critical for potential enrollees and CMS to have access without a password or other security measures from the plan.

4. Duplication of Efforts

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

5. Small Businesses

The collection of information will have a minimal impact on small businesses since MA organizations must possess an insurance license to operate and as a condition of that license, generally be able to accept substantial financial risk. State statutory licensure requirements generally preclude small businesses from bearing the risk needed to participate in Medicare Advantage.

6. Less Frequent Collection

Plans must update their websites in accordance with the beginning of the coverage year. Less frequent updates to this information would severely impact the visibility into plan conduct. It would severely limit CMS' ability to perform accurate and timely oversight, monitoring, compliance and auditing activities around the provision and coverage of SSBCI. It would further impact the enrollment and disenrollment decisions of individuals considering potential plan choices as enrollees may base these decisions on the eligibility criteria published on the plan website.

7. Special Circumstances

There are no special circumstances that would require an information collection to be conducted in a manner that requires respondents to:

- Report information to the agency more often than quarterly;
- Prepare a written response to a collection of information in fewer than 30 days after receipt of it;
- Submit more than an original and two copies of any document;
- Retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;
- Use a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study,
- Use statistical data classification that has not been reviewed and approved by OMB;
- 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
- 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/Outside Consultation

Serving as the 60-day notice the NPRM (CMS-4208-P; RIN 0938-AV40) posted for public inspection on November 26, 2024, and is scheduled to publish on December 10 (89 FR TBD). Comments are due on/by January 27, 2025.

9. Payments/Gifts to Respondents

There are no payments/gifts to respondents.

10. Confidentiality

Not applicable. CMS is not collecting this information nor does this information include any requirements for disclosure of information that is confidential.

11. Sensitive Questions

There are no sensitive questions associated with this collection. Specifically, the collection does not solicit questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

12. Burden Estimates

To derive average (mean) 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 (https://www.bls.gov/oes/2023/may/oes_nat.htm), which, at the time of publication of this proposed rule, provides May 2023 wages. In this regard, the following table presents BLS's

mean hourly wage, our estimated cost of fringe benefits and other indirect costs (calculated at 100 percent of salary), and our adjusted hourly wage.

NATIONAL OCCUPATIONAL EMPLOYMENT AND WAGE ESTIMATES

Occupational Title	Occupation Code	Mean Hourly Wage (\$/hr)	Fringe Benefits and Other Indirect Costs (\$/hr)	Adjusted Hourly Wage (\$/hr)
Software and Web Developers, Programmers, Testers	15-1250	62.74	62.74	125.48

Adjusting our employee hourly wage estimates by a factor of 100 percent is a rough adjustment that is being used since fringe benefits and other indirect costs vary significantly from employer to employer and because methods of estimating these costs vary widely from study to study. In this regard, we believe that doubling the hourly wage to estimate costs is a reasonably accurate estimation method.

Information Collection Requirements and Associated Burden Estimates

As explained in section III.H. of the proposed rule, for each SSBCI, the plan must list all the written policies and objective criteria on which the policies are based as noted in § 422.102(f)(4)(iii)(C) on a public facing website.

For web developers and programmers to annually post the required information on the plan website we estimate it would take 2 hours at \$125.48/hr. We estimate 761 plans including local and regional CCPs, MSA, and PFFS and reflects the publicly available CMS counts of these plans as of July 2024 accessible at <https://www.cms.gov/research-statistics-data-and-systems/statistics-trends-and-reports/mcradvpartdenroldata/monthly/contract-summary-2024-07>.

In aggregate we estimate an annual burden of 1,522 hours (761 plans * 2 hr/plan) at a cost of \$190,981 (1,522 hr * \$125.48/hr). Medicare Cost plans are excluded from the count since they are not permitted to offer SSBCI.

Burden Summary

Regulatory Section in Title 42 of the CFR	Respondents	Total Responses	Time per Response (hr)	Total Time (hr)	Labor Cost (\$/hr)	Total Cost 1 st Year (\$)	Total Cost Subsequent Years (\$)
§ 422.102(f)(4)(iii)(C)	761	761	2	1,522	125.48	190,981	190,981

Information Collection Instruments and Associated Instructions

Not applicable. The requirements are set out in the proposed rule and are intended to be codified in the final rule.

13. Capital Costs

There are no capital costs.

14. Cost to Federal Government

None of the costs associated with the requirements outlined in section 12 of this Supporting Statement would be incurred by the Federal Government. Regardless, the following is an assessment of the costs incurred in the normal course of business operations.

To derive average costs, the \$49.55/hr is derived from OPM’s 2024 Salary Table at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2024/RUS_h.pdf. In this regard, the following table presents the OPM’s hourly wage, our estimated cost of fringe benefits and other indirect costs (calculated at 100 percent of salary), and our adjusted hourly wage.

Grade (Step)	Hourly Wage (\$/hr)	Fringe Benefits and Other Indirect Costs (\$/hr)	Adjusted Hourly Wage (\$/hr)
GS-13 (Step 1)	49.55	49.55	99.10

Annual Time: 104 hours (2,080 hr for the average full-time employee x 0.05)

Annual Cost: \$10,306 (\$99.10/hr x 104 hr)

15. Changes to Burden

Not applicable. This is a new collection of information request.

16. Publication/Tabulation Dates

Not applicable.

17. Expiration Date

CMS will display the expiration date.

18. Certification Statement

There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods

This collection does not employ statistical methods.