

Supporting Statement A for the CMS-359 & CMS-360 Form

A. Background

This information collection is for the reinstatement of the CMS-359 and a reinstatement with change of the CMS-360 forms. The current OMB approval for the CMS-359 and CMS-360 forms expired on 02/29/2024, therefore, this is a request for reinstatement of the OMB approval for these forms. The purpose of these forms is described below.

The CMS-359 form is an application for health care providers that seek to participate in the Medicare program as a Comprehensive Outpatient Rehabilitation Facility (CORF). This form initiates the process for facilities to become certified as a CORF and it provides the CMS Location and State Survey Agency (SA) staff identifying information regarding the applicant that is stored in the Automated Survey Processing Environment (ASPEN) system.

The CMS-360 form is a survey tool used by the SAs to record information in order to determine a provider's compliance with the CORF Conditions of Participation (COPs) and to report this information to the Federal government. The form includes basic information on the COP requirements, check boxes to indicate the level of compliance, and a section for recording notes. CMS has the responsibility and authority for certification decisions which are based on provider compliance with the COPs and this form supports this process.

B. Justification

1. Need and Legal Basis

This information collection is authorized by Section 933 of the Omnibus Budget Reconciliation Act of 1980 which allows CORFs to be recognized as Medicare providers of services, and amends sections of the Social Security Act, including Section 1861(cc)(1) and 1863. These sections recognize CORFs as Medicare providers and allow the Secretary to establish Conditions of Participation (COPs) and to use State resources under contract in determining compliance with these requirements. The COPs are specified at 42 CFR 485.54 through §485.66.

The certification form (CMS-359) is used as the application to participate in the Medicare program. The form establishes necessary provider identification data for entry into ASPEN and screens for the required CORF services that are necessary for the provider to participate in the Medicare program.

The COPs are the minimum health and safety requirements that each CORF must meet in order to successfully participate in Medicare. To determine compliance with COPs, the Secretary has authorized States, through contracts, to conduct surveys of health care providers. For Medicare purposes, certification decisions are based on the SAs recording of a provider or supplier's compliance or noncompliance with the COPs. The CORF Survey Report Form (CMS-360) contains a narrative listing of the COPs for use by State Agency surveyors. The information needed to determine compliance is only available to CMS through use of information abstracted

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from this survey tool. The surveyor reports on each condition by checking a box alongside the condition or standard indicating whether or not the State found that the provider met the requirement. Space is also provided for appropriate explanatory statements regarding negative findings.

2. Information Users

The request for certification and the survey form are used by CMS in making certification decisions about CORFs. When a provider initially expresses an interest in participating in the Medicare program as a CORF, they must first contact the applicable SA, which will then forward the Request for Certification (CMS-359) to the provider. The provider is required to complete and return the CMS-359 form to the SA, which is then forwarded to the designated CMS Location. The information on the completed CMS-359 form assists the CMS Location staff in determining if the provider meets basic eligibility requirements for the provision of CORF services. The CMS Location will then request that the SA perform a survey of that provider.

The basic identifying information from the CMS-359 form and individual compliance codes from the CMS-360 survey form are entered into ASPEN and serve as the information base for the creation of a record for future Federal certification for oversight activity. The Form CMS-360 is utilized by the SA to assess for compliance with the COPs during initial Medicare certification and periodically thereafter for recertification.

3. Improved Information Technology

The CMS-360 survey form serves primarily as a coding worksheet for inputting compliance information into the ASPEN system. The standardized format and simple check box method provides for consistent reporting by SAs and easy automation of basic findings.

4. Duplication and Similar Information

The CMS-359 and CMS-360 are survey and certification forms that do not duplicate any information collection. The requirements are unique and are specified in a way so they do not duplicate existing facility information.

The CMS-359 and CMS-360 forms address specific regulatory requirements of CORFs for participating in the Medicare program. SAs conduct these reviews with Federal funds under contract with CMS. This form is a basic deliverable under the contracts and is the only one of its kind collected by CMS for CORFs.

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5. Small Business

The majority of CORFs are small businesses. These information collection requirements do not have a significant impact on small businesses. This information collection requirement is necessary in order for a provider to participate in the Medicare program as a CORF whether they are a small or large business.

6. Less frequent Collection

Providers are only required to complete the CMS-359 form once upon initial application to Medicare. The CMS-360 form is completed by the SA surveyor and the frequency of submission depends on the frequency of surveys which is specified by CMS policy. Currently CORFs are surveyed upon initial application to Medicare and once every six years thereafter.

7. Special Circumstances for Information Collection

There are no special circumstances.

8. Federal Register and Outside Consultants

The 60-day Federal Register notice published on XX/XX/XXXX.

The 30-day Federal Register notice published on XX/XX/XXXX.

9. Payments or Gifts

There are no payments or gifts associated with this collection.

10. Confidentiality

Information collected will be utilized by CMS and its agents for certification and enforcement actions. This information is publicly disclosable. Any identifiable data subject to the Privacy Act is deleted prior to disclosure.

11. Sensitive Questions

There are no questions of a sensitive nature.

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12. Estimate of Burden (Reporting)

CMS-359: Based on past usage of this form and the general nature of the questions, we estimate that it takes approximately 30 minutes to complete this form, including the time required to read the instructions and gather the information necessary prior to filling out the form.

The burden for this request is based on a current total of 49 existing CORFs that would be surveyed every 6 years, which would equate to the SA surveying 8 existing CORFs per year. We also estimate that there would be 10 new CORFs per year completing the CMS-359.

a. Burden Related to Completion of the CMS-359 Form

The burden related to the CMS-359 form would only apply to the providers that are applying for participation in the Medicare program as a CORF. This is a one-time burden that applies to new CORFs only.

5-Year Average Number of New CORFs

<u>Year</u>	<u>Number of New CORFs</u>
2018	2
2019	4
2020	0
2021	4
<u>2022</u>	<u>2</u>
TOTAL	12

(12 new CORFs per year ÷ 5 years = 2.4 new CORFs per year)

As the above information shows, the 5-year average number of new CORFs established per year is 2.4. For the purposes of these burden calculations, we will round this figure up to 3 new CORFs established per year.

We estimate that it would take approximately 30 minutes (0.5 hour) to complete each CMS-359 form. We further estimate that the total annual time burden **across all 3 new CORFs** would be **1.5 hours**.

We believe that the person at the CORF that is likely to complete the CMS-359 form would have a job that is comparable to the U.S. Bureau of Labor Statistics job category of Medical and Health Services Manager. According to the U.S. Bureau of Labor Statistics would be a Medical Health Services Manager with an estimated hourly wage of \$61.53.¹ This wage, adjusted to account for the employer's overhead and fringe benefits, would be **\$123.06 per hour**.

¹ <https://www.bls.gov/oes/current/oes119111.htm>

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We estimate that the cost burden for the completion of *each* CMS-359 form would be **\$62**.

- $123.06 \div 60 \text{ min. per hour} = \2.051 per min.
- $\$2.051 \text{ per min.} \times 30 \text{ min.} = \61.53

We further estimate that the total annual cost burden across the 3 new CORFs per year would be **\$185**.

- $1.5 \text{ hours} \times \$123.06 \text{ per hour} = \184.59

After completion of the CMS-359 form, the provider must submit this form by regular mail to the applicable SA. We believe that after the Medical or Health Services Manager completes the CMS-359 form, they would give it to a Medical Secretary, or another employee with an equivalent job description, for copying and mailing to the SA.

To complete this task, the Medical Secretary would have to perform the following activities:

- photocopy the completed CMS-359 form,
- file this photocopy in the appropriate place,
- type an envelope and cover letter,
- place the cover letter and completed CMS-359 form into the prepared envelope,
- seal the envelope,
- affix the correct amount of postage to the envelope, and
- put the envelope into the outgoing mail or mailbox

We estimate that the time required to perform this task by each new CORF would be approximately **30 minutes (0.5 hours)**.

We further estimate that the total annual time burden *across all* 3 new CORFs established per year would be **1.5 hours**.

- $0.5 \text{ hours} \times 3 \text{ new CORFs} = 1.5 \text{ hours}$

According to the U.S. Bureau of Labor Statistics, the average hourly wage for a Medical Secretary is \$19.84². This wage adjusted for the employer's overhead and fringe benefits would be **\$39.68**.

We estimate that the cost burden associated with the preparation of *each* completed CMS-359 form for mailing to the SA would **\$20**

- $0.5 \text{ hour} \times \$39.68 \text{ per hour} = \19.84

² See: <https://www.bls.gov/oes/current/oes436013.htm#nat>

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We further estimate that the annual time burden across *all new CORFs* per year would be **\$60**.

- $\$39.68 \times 1.5 \text{ hours} = \59.52

b. Burden Related to Completion of the CMS-360 Form

The SA surveyors complete the CMS-360 form upon a CORFs initial participation in the Medicare program and during each renewal survey, which are performed once every six years as required by the Medicare regulations.

5 Year Average Number of Existing CORFs

<u>Year</u>	<u>Number of Existing CORFs</u>
2018	182
2019	174
2020	163
2021	159
<u>2022</u>	<u>157</u>
TOTAL	835

$835 \text{ existing CORFs per year} \div 5 \text{ years} = 167 \text{ existing CORFs per year}$

As the above information shows, the 5-year average number of existing CORF is 167. All CORFs are certified by the SA. CORFs are surveyed by the SA every 6 years. This would equate to **28** existing CORFs being surveyed per year.

- $167 \text{ existing CORFs} \div 6 \text{ years} = 27.833 \text{ CORFs surveyed per year}$

We estimate that it would take the SA surveyor approximately **8 hours** to complete *each* CMS-360 form, including the time it takes to perform the survey activities required to gather the information necessary to complete the form.

We further estimate that the total annual time burden *across all existing CORFs* being surveyed per year for completion of the survey and CMS-360 survey report would be **224 hours**.

- $8 \text{ hours} \times 28 \text{ CORFs surveyed per year} = 224 \text{ hours}$

Surveyors are typically Registered Nurses (RNs). According to the U.S. Bureau of Labor Statistics, the average hourly wage for an RN is \$42.80³. This wage adjusted for the employer's overhead and fringe benefits is **\$85.60**.

3 <https://www.bls.gov/oes/current/oes291141.htm>

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The estimated cost burden to *each* CORF for the completion of *each* CMS-360 report would be **\$685**

- 8 hours x \$85.60 = \$684.80

The annual cost burden across all existing CORFs surveyed by the SA each year is **\$19,174**.

- 224 hours x \$85.60 per hour = \$19,174.40

After completion of the CMS-359 form, the provider must submit this form by regular mail to the applicable SA. We believe that after the Medical or Health Services Manager completes the CMS-359 form, they would give it to a Medical Secretary, or employee with an equivalent job, for copying and mailing to the SA.

To complete this task, the Medical Secretary would have to perform the following activities:

- photocopy the completed CMS-359 form,
- file this photocopy in the appropriate place,
- type an envelope and cover letter,
- place the cover letter and completed CMS-359 form into the prepared envelope,
- seal the envelope,
- affix the correct amount of postage to the envelope, and
- put the envelope into the outgoing mail or mailbox

We estimate that the time required to perform this task by each new CORF would be approximately **30 minutes (0.5 hours)**.

We further estimate that the total annual time burden *across all* 3 new CORFs established per year would be **14 hours**.

- 0.5 hours x 28 existing CORFs surveyed per year = 14 hours

According to the U.S. Bureau of Labor Statistics, the average hourly wage for a Medical Secretary is \$19.84⁴. This wage adjusted for the employer's overhead and fringe benefits would be **\$39.68**.

We estimate that the cost burden associated with the preparation of *each* completed CMS-359 form for mailing to the SA would **\$20**.

- 0.5 hour x \$39.68 per hour = \$19.84

⁴ See: <https://www.bls.gov/oes/current/oes436013.htm#nat>

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After completion of the CMS-359 form, the CORF must submit this form by regular mail to the applicable SA. We believe that after the Medical or Health Services Manager completes the CMS-359 form, they would give it to a Medical Secretary for copying and mailing to the SA.

We further estimate that the annual time burden across *all new CORFs* per year would be \$556.

$$\$39.68 \times 14 \text{ hours} = \$555.52$$

c. Summary of Time & Cost Burden Related to the CMS-359 and CMS-360 Forms

The table below provides a summary of the time and cost burdens associated with the CMS-359 and CMS-360 forms.

Time & Cost Burdens for CMS-359 form					
Task	Number of Responses	Time Per Each Response	Annual Hour Burden Across All Providers	Cost Per Response	Annual Cost Burden
Completion of all CMS-359 forms by all new CORFs.	3	0.5 hour	1.5 hours	\$62	\$185
Preparation of all completed CMS-359 forms for mailing to the applicable SAs by all new CORFs	NA	0.5 hour	1.5 hours	\$20	\$60
Total Burden for the CMS-359 Form	3	1 hour	3 hours	\$82	\$245

Time & Cost Burdens for CMS-360 form					
Task	Number of Responses	Time Per Each Response	Annual Hour Burden Across All Providers	Cost Per Response	Annual Cost Burden
Completion of all CMS-360 forms across all existing CORFs	28	8 hours	224 hours	\$685	\$19,174
Preparation of all completed CMS-360 forms for mailing to the applicable SAs by all existing CORFs	NA	0.5 hours	14 hours	\$20	\$556

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Total Burden for the CMS-360 Form	28	8.5 hours	238 hours	\$705	\$19,730
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Time & Cost Burdens for *BOTH* the CMS-359 & CMS-360 form

Task	Number of Responses	Time Per Each Response	Annual Hour Burden Across All Providers	Cost Per Response	Annual Cost Burden
Total time & cost burdens for the CMS-359 burden	3	1 hour	3 hours	\$82	\$245
Total time & cost burden for the CMS-360 form	28	8.5 hours	238 hours	\$705	\$19,730
Total Annual Time & Cost Burdens for <i>both</i> the CMS-359 & CMS-360 forms	31	9.5 hours	241 hours	\$787	\$19,975

13. Capital Costs

There are no capital costs associated with this collection.

14. Federal Cost Estimates

a. Cost to the Federal Government for the CMS-359 form:

CMS is responsible for accepting the CMS-359 or CMS-360 forms (as applicable) submitted. Following a review of the file, an authorized CMS staff person will approve and sign the form.

We estimate that it would take a CMS reviewer **15 minutes** to review and file each CMS-360/CMS-360 form. We further estimate that the total annual time expended by CMS reviewers for this task would be **0.75 hours**.

- 15 min. x 3 CMS-359 forms per year = 45 min.
- 45 min. ÷ 60 min per hr. = 0.75 hours

We believe that the person at CMS who would perform this task would have the job title of “Reviewer.” We further believe that this person would be a GS-13, step 5. Such a person in the Pennsylvania region would have an annual salary of \$116,459, and which equates to an average hourly pay of \$55.99.⁵

⁵ https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2022/PHL_h.pdf

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We estimate that the cost associated with the receipt, review and filing of **each** CMS-360/CMS-360 form by CMS would be **\$14**.

- \$55.99 divided by 60 min. per hour = \$0.933 per min
- \$0.933 per min. x 15 min. = \$13.995

We further estimate that the cost for the review of all CMS-359 forms submitted per year would be **\$42**.

- 0.75 hours x \$55.99 hours = \$41.99

b. Cost to the Federal Government for the CMS-360 form:

CMS is responsible for accepting the CMS-360 forms (as applicable) submitted. Following a review of the file, an authorized CMS staff person will approve and sign the form.

We estimate that it would take a CMS reviewer **15 minutes** to review and file each CMS-360/CMS-360 form. We further estimate that the total annual time expended by CMS reviewers for this task would be **7 hours**.

- 15 min. x 28 CMS-360 forms per year = 420 min.
- 420 min. ÷ 60 min per hr. = 7 hours

We believe that the person at CMS who would perform this task would have the job title of "Reviewer." We further believe that this person would be a GS-13, step 5. Such a person in the Pennsylvania region would have an annual salary of \$116,459, and which equates to an average hourly pay of **\$55.99**.

We estimate that the cost associated with the receipt, review and filing of **each** CMS-360 form by CMS would be **\$14**.

- \$55.99 divided by 60 min. per hour = \$0.933 per min
- \$0.933 per min. x 15 min. = \$13.995

We further estimate that the cost for the review of all CMS-360 forms submitted per year would be **\$392**.

- 7 hours x \$55.99 hours = \$391.93

c. Total Cost to the Federal Government Associated with the CMS-359 and CMS-360 Forms

Annual Time Burden to the Federal Government:

Annual Time Burden for CMS-359 form	0.75 hour
<u>Annual Time Burden for CMS-359 form</u>	<u>7.00 hour</u>
Total Annual Time Burden for CMS-359/CMS-360	7.75 hours

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Annual Cost Burden to the Federal Government:

Annual Cost Burden for CMS-359 form	\$ 42
<u>Annual Cost Burden for CMS-359 form</u>	<u>\$392</u>
Total Annual Time Burden for CMS-359/CMS-360	\$434

15. Changes in Burden/Program Changes

The two (2) tables below show the changes in burden that have occurred since the last PRA package.

Changes in Burden for the CMS-359 form			
Description of Task	Total Requested	Currently Approved	Change in Burden
Annual number of responses for the CMS-359 form	3 responses	10 responses	-7 responses
Time required to complete each CMS-359 form	0.5 hour	0.5 hours	+/-0
Time burden <i>across all new CORFs</i> for completion of <i>all</i> CMS-359 forms annually	1.5 hours	5 hours	-3.5 hours
Time burden to prepare <i>EACH</i> CMS-359 form for sending to the SA by U.S.P.S. mail or email	0.5 hours	0.5 hours	+/-0
Time burden <i>across all new CORFs</i> to prepare ALL CMS-359 form for sending to the SA by U.S.P.S. mail or email	1.5 hours	5 hours	-3.5 hours
Cost burden to complete each CMS-359 form	\$62	\$55	-\$7
Cost burden <i>across all new CORFs</i> for completion of <i>all</i> CMS-359 forms annually	\$185	\$547	-\$362
Cost burden to prepare <i>EACH</i> CMS-359 form for sending to the SA by U.S.P.S. mail or email	\$20	\$18	+\$2
Cost burden <i>across all new CORFs</i> to prepare ALL CMS-359 form for sending to the SA by U.S.P.S. mail or email	\$60	\$178	-\$59
Total Change in Number of Respondents	3 responses	10 responses	-7 responses
Total Change in Time Burden	3 hours	10 hours	-7 hours
Total Change in Cost Burden	\$245	\$725	-\$480

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Changes in Burden for the CMS-360 form			
Description of Task	Total Requested	Currently Approved	Change in Burden
Number of annual responses for the CMS-360 form	28	8	+20
Time burden to complete <i>each</i> CMS-360 form	8 hours	8 hours	+/- 0 hours
Time burden <i>across all new CORFs</i> to complete <i>all</i> CMS-360 forms annually.	224 hours	64 hours	+160 hours
Time burden to prepare <i>EACH</i> CMS-360 form for sending to the SA by U.S.P.S. mail or email	0.5 hours	0.25 hour	+0.25 hour
Time burden <i>across all new CORFs</i> to prepare ALL CMS-360 form for sending to the SA by U.S.P.S. mail or email	14 hours	2 hours	+12 hours
Cost burden to complete <i>each</i> CMS-360 form	\$685	\$581	+\$104
Cost burden <i>across all new CORFs</i> to complete <i>all</i> CMS-360 forms annually.	\$19,174	\$4,646	+\$14,528
Cost burden to prepare <i>EACH</i> CMS-360 form for sending to the SA by U.S.P.S. mail or email	\$20	\$9	+\$11
Cost burden <i>across all providers</i> to prepare ALL CMS-437 form for sending to the SA by U.S.P.S. mail or email	\$556	\$72	+\$484
Total Change in Number of Respondents	28	8	+20
Total Change in Time Burden	238 hours	66 hours	+172 hours
Total Change in Cost Burden	\$19,730	\$4,718	+\$15,012

As the above tables show, there has been a decrease in the annual time and cost burdens for the CMS-359 form but an increase in the total annual time and cost burden for the CMS-360 form. These changes are attributable to the following two (2) factors.

First, for the CMS-359 form, there has been a *decrease* in the annual number of respondents that has resulted in the following changes to the annual time and cost burdens for the CMS-359 form. These changes include:

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- The number of respondents has decreased from 10 respondents in the previous PRA package to 3 respondents in the current PRA package. **This is a decrease of 7 respondents annually for the CMS-359 form.**
- The total annual time burden for the CMS-359 form in the previous PRA package was 10 hours, however, in the current PRA package this time burden is 3 hours. **This is a decrease of 7 hours annually in the total annual time burden for the CMS-359 form.**
- The total annual cost burden for the CMS-359 form was \$725 in the previous PRA package. In the current PRA, these costs have decreased to \$245. **This is a decrease in the total annual cost burden of \$480 for the CMS-359 form.**
- The decrease in the number of respondents for the CMS-359 form is responsible for the decreased total annual time and cost burdens for the CMS-360 form.

As the above table also shows, for the CMS-360 form, there has been an *increase* in the total annual time and cost burdens. These changes include:

- The number of respondents for the CMS-360 form has increased. More specifically, the number of respondents has increased from 8 in the last PRA package to 28 in this PRA package. **This is an increase of 20 respondents annually.**
- The total annual time burden for the CMS-360 form on the previous PRA package was 66 hours, however, in the current PRA package the total annual time burden is 238 hours. **This is a decrease of 172 hour annually.**
- The total annual cost burden in the previous PRA package for the CMS-360 form was \$4,718. In the current PRA, this costs burden has increased to \$19,730. **This is an increase in the total annual cost burden of \$15,012.**
- The increase in the number of respondents for the CMS-360 form is partly responsible for the increased total annual time and cost burdens for the CMS-360 form.

Second, we have changed the adjusted hourly wage rates for the staff we believe will perform the required tasks associated with the completion and submission of the CMS-359 and CMS-360 forms to the current (and higher) rates set forth in the U.S. Bureau of Labor Statistics. These wage rate changes include:

- The adjusted hourly wage for the Medical & Health Services Manager was increased from \$109.36 in the previous PRA package to \$123.06 in the current PRA package. **This is an increase of \$13.70 per hour for the job of Medical & Health Services Manager.**
- The adjusted hourly wage for the Registered Nurse was increased from \$72.60 in the previous PRA package to \$85.60 in the current PRA package. **This is an increase of \$13.00 per hour for the job of Registered Nurse.**

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- The adjusted hourly wage for the Medical Secretary was increased from \$35.66 in the previous PRA package to \$39.68 in the current PRA package. **This is an increase of \$4.02 per hour for the job of Medical Secretary.**

For the **CMS-359 form**, despite the wage rate increases, the total annual cost burden for the form in the current PRA package has decreased by \$421. This can be accounted for by the fact that the number of respondents for the CMS-359 form has decreased by 66.66% since the previous PRA package.

For the CMS-360 form, the increased wage rates in combination with the increased number of respondents have resulted in an increase in the total cost burden in the amount of \$15,084.

16. Publication and Tabulation Dates

There are no publication and tabulation dates associated with this collection.

17. OMB Expiration Date

The expiration date is displayed on the collection instrument.

18. Certification Statement

There is no exception from this certification statement.

C. Collections of Information Employing Statistical Methods.

There are no statistical methods associated with this information collection.