

Dated: May 16, 2007.

**Michelle Shortt,**

*Director, Regulations Development Group,  
Office of Strategic Operations and Regulatory  
Affairs.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[Document Identifier: CMS-10207]

#### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Physician Self-Referral Exceptions for Electronic Prescribing and Electronic Health Records (CMS-1303-F); *Form Number:* CMS-10207 (OMB#: 0938-1009); *Use:* Section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) directs the Secretary to create an exception to the physician self-referral prohibition in section 1877 of the Act for certain arrangements in which a physician receives compensation in the form of items or services (not including cash or cash equivalents) ("nonmonetary remuneration") that is necessary and used solely to receive and transmit electronic prescription information. In addition, using our separate legal authority under section 1877(b)(4) of the Act, the regulation

CMS-1303-F (71 FR 45140) created a separate regulatory exception for certain arrangements involving the provision of nonmonetary remuneration in the form of electronic health records software or information technology and training services necessary and used predominantly to create, maintain, transmit, or receive electronic health records. These exceptions are consistent with the President's goal of achieving widespread adoption of interoperable electronic health records to improve the quality and efficiency of health care while maintaining the levels of security and privacy that consumers expect.

The conditions for both exceptions require that arrangements for the items and services provided must be set forth in a written agreement, be signed by the parties involved, specify the items or services being provided and the cost of those items or services, and cover all of the electronic prescribing and/or electronic health records technology to be provided by the donating entity. We have suggested that, instead of one master agreement that is updated with each new donation, the parties may choose to create a specific new contract and then reference other agreements or cross-reference a master list of agreements.

The requirements associated with the exception for electronic prescribing items and services are limited to donations made by hospitals to members of their medical staffs; by group practices to their physician members; and by PDP sponsors and MA organizations to prescribing physicians. The requirements associated with the exception for electronic health records software or information technology and training services include donations by entities furnishing DHS to physicians. The paperwork burden is the creation and execution of the written agreements. The burden associated with the written agreement requirement is the time and effort necessary for documentation of the agreement between the parties, including the signatures of the parties. *Frequency:* Recordkeeping and Reporting—On occasion; *Affected Public:* Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 27,440; *Total Annual Responses:* 54,730; *Total Annual Hours:* 17,545.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site address at <http://www.cms.hhs.gov/PaperworkReductionActof1995>, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to

[Paperwork@cms.hhs.gov](mailto:Paperwork@cms.hhs.gov), or call the Reports Clearance Office on (410) 786-1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received at the address below, no later than 5 p.m. on July 24, 2007.

CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development—B, Attention: William N. Parham, III, Room C4-26-05, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

Dated: May 21, 2007.

**Michelle Shortt,**

*Director, Regulations Development Group,  
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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[CMS-1274-NC]

#### Medicare and Medicaid Programs; Announcement of Applications From Two Hospitals Requesting Waivers for Organ Procurement Service Areas

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Notice with comment period.

**SUMMARY:** This notice announces two hospitals' requests for a waiver from entering into an agreement with its designated organ procurement organization (OPO), in accordance with section 1138(a)(2) of the Social Security Act (the Act). This notice requests comments from OPOs and the general public for our consideration in determining whether we should grant the requested waiver for each hospital.

**DATES:** *Comment Date:* To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on July 24, 2007.

**ADDRESSES:** In commenting, please refer to file code CMS-1274-NC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (no duplicates, please):

1. *Electronically.* You may submit electronic comments on specific issues in this regulation to <http://www.cms.hhs.gov/eRulemaking>. Click on the link "Submit electronic comments on CMS regulations with an