

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Privacy Act of 1974; Report of New System of Records

AGENCY: Department of Health and Human Services (HHS), Health Care Financing Administration (HCFA).

ACTION: Notice of New System of Records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new system of records, "1-800 Medicare Choices Helpline (HELPLINE), HHS/HCFA/CBS System No. 09-70-0535."

HCFA proposes a new system of records collecting data under the authority of Public Law 105-33, the Balanced Budget Act (BBA) of 1997. The primary purpose of the system of records is to provide general information to beneficiaries and future beneficiaries so that they can make informed Medicare decisions. Information retrieved from this system of records will also be used to support regulatory and policy functions performed within the agency or by a contractor or consultant; constituent requests made to a congressional representative; and litigation involving the agency related to this system of records. We have provided background information about the proposed system in the

SUPPLEMENTARY INFORMATION section below. Although the Privacy Act requires only that the "routine use" portion of the system be published for comment, HCFA invites comments on all portions of this notice. See **EFFECTIVE DATES** section for comment period.

DATES: HCFA filed a new system report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on March 20, 2001. To ensure that all parties have adequate time in which to comment, the new system of records, including routine uses, will become effective 40 days from the publication of the notice, or from the date it was submitted to OMB and the Congress, whichever is later, unless HCFA receives comments that require alterations to this notice.

ADDRESSES: The public should address comments to: Director, Division of Data Liaison and Distribution (DDL), HCFA, Room N2-04-27, 7500 Security Boulevard, Baltimore, Maryland 21244-

1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.—3 p.m., eastern time zone.

FOR FURTHER INFORMATION CONTACT:

Carol Davis, Project Officer, Division of Call Center Operations, Customer Teleservice Operations Group, Center for Beneficiary Services, HCFA, 7500 Security Boulevard, C2-26-20, Baltimore, Maryland 21244-1850.

SUPPLEMENTARY INFORMATION:

I. Description of the Modified System of Records

Statutory and Regulatory Basis for System of Records

In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new system of records, called "1-800-Medicare Choices Helpline (HELPLINE), Systems No. 09-70-0535." HCFA proposes to initiate this new system of records collecting data under the authority of 41 CFR Chapter 101-20.302, Conduct on Federal Property, and OMB Circular A-123, Internal Control Systems and Public Law 105-3, the Balanced Budget Act of 1997.

HCFA is mandated to provide for activities to broadly disseminate information to Medicare beneficiaries and prospective Medicare beneficiaries on the coverage options provided under the Medicare + Choice program in order to promote an active, informed selection among such options. The information campaign shall include general information, information comparing plan options, and information on Medigap and Medicare Select. This information is to be provided through toll-free telephone service, Internet Site, Print, and local education and outreach.

The collected information will contain name, address, telephone number, and Health Insurance Claim (HIC) Number, as well as, background information relating to Medicare or Medicaid issues. The HELPLINE will also maintain a caller history in the desktop for purposes of re-contacts by customer service representatives or HCFA.

II. Collection and Maintenance of Data in the System

A. Scope of the Data Collected

The collected information will contain name, address, telephone number, and health insurance claim number, email address and background information relating to Medicare or Medicaid issues.

B. Agency Policies, Procedures, and Restrictions on the Routine Use

We are establishing the following policies, procedures and restrictions on routine uses of this system. In general, disclosure of information from the system of records will be approved only for the minimum information necessary to accomplish the purpose of the disclosure after HCFA:

(a) Determines that the use or disclosure is consistent with the reason that the data is being collected; e.g., provide general information to beneficiaries so that they can make informed decisions.

(b) Determines:

(1) That the purpose for which the disclosure is to be made can only be accomplished if the record is provided in individually identifiable form;

(2) That the purpose for which the disclosure is to be made is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

(3) That there is a strong probability that the proposed use of the data would in fact accomplish the stated purpose(s).

(c) Requires the information recipient to:

(1) Establish administrative, technical, and physical safeguards to prevent unauthorized use of disclosure of the record;

(2) Remove or destroy at the earliest time all patient-identifiable information; and

(3) Agree to not use or disclose the information for any purpose other than the stated purpose under which the information was disclosed.

(d) Determines that the data are valid and reliable.

III. Proposed Routine Use Disclosures of Data in the System

The Privacy Act permits us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such compatible use of data is known as a "routine use." The proposed routine use in this system meets the compatibility requirement of the Privacy Act. HCFA is proposing to disclose information from this system of records under the following routine uses.

1. To agency contractors, or consultants who have been engaged by the agency to assist in the performance of a service related to this system of records and who need to have access to the records in order to perform the activity.

We contemplate disclosing information under this routine use only in situations in which HCFA may enter into a contractual or similar agreement with a third party to assist in accomplishing HCFA functions relating to purposes of this system of records.

HCFA occasionally contracts out certain of its functions when this would contribute to effective and efficient operations. HCFA must be able to give a contractor whatever information is necessary for the contractor to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor from using or disclosing the information for any purpose other than that described in the contract and to return or destroy all information at the completion of the contract.

2. To a Member of Congress or to a congressional staff member in response to an inquiry of the Congressional Office made at the written request of the constituent about whom the record is maintained.

Beneficiaries sometimes request the help of a Member of Congress in resolving some issue relating to a matter before HCFA. The Member of Congress then writes HCFA, and HCFA must be able to give sufficient information to be responsive to the inquiry.

3. To the Department of Justice (DOJ), court or adjudicatory body when:

(a) The agency or any component thereof; or

(b) Any employee of the agency in his or her official capacity; or

(c) Any employee of the agency in his or her individual capacity where the DOJ has agreed to represent the employee; or

(d) The United States Government; is a party to litigation or has an interest in such litigation, and by careful review, HCFA determines that the records are both relevant and necessary to the litigation.

Whenever HCFA is involved in litigation, or occasionally when another party is involved in litigation and HCFA's policies or operations could be affected by the outcome of the litigation, HCFA would be able to disclose information to the DOJ, court or adjudicatory body involved. A determination would be made in each instance that, under the circumstances involved, the purposes served by the use of the information in the particular litigation is compatible with a purpose for which HCFA collects the information.

IV. Safeguards

A. Authorized Users

Personnel having access to the system have been trained in Privacy Act

requirements. Employees who maintain records in the system are instructed not to release any data until the intended recipient agrees to implement appropriate administrative, technical, procedural, and physical safeguards sufficient to protect the confidentiality of the data and to prevent unauthorized access to the data. Records are used in a designated work area or workstation and the system location is attended at all times during working hours.

To ensure security of the data, the proper level of class user is assigned for each individual user. This prevents unauthorized users from accessing and modifying critical data. The system database configuration includes five classes of database users:

- *Database Administrator* class owns the database objects; e.g., tables, triggers, indexes, stored procedures, packages, and has database administration privileges to these objects;

- *Quality Control Administrator* class has read and write access to key fields in the database;

- *Quality Index (QI) Report Generator* class has read-only access to all fields and tables;

- *Policy Research* class has query access to tables, but are not allowed to access confidential patient identification information; and

- *Submitter* class has read and write access to database objects, but no database administration privileges.

B. Physical Safeguards

All server sites have implemented the following minimum requirements to assist in reducing the exposure of computer equipment and thus achieve an optimum level of protection and security for the HELPLINE system:

Access to all servers is controlled, with access limited to only those support personnel with demonstrated need for access. Servers are to be kept in a locked room accessible only by specified management and system support personnel. Each server requires a specific log-on process. All entrance doors are identified and marked. A log is kept of all personnel who were issued a security card, key and/or combination that grants access to the room housing the server, and all visitors are escorted while in this room. All servers are housed in an area where appropriate environmental security controls are implemented, which include measures implemented to mitigate damage to Automated Information System (AIS) resources caused by fire, electricity, water and adequate climate controls.

Protection applied to the workstations, servers and databases include:

- *User Log-on*—Authentication is performed by the Primary Domain Controller/Backup Domain Controller of the log-on domain.

- *Workstation Names*—Workstation naming conventions may be defined and implemented at the State agency level.

- *Hours of Operation*—May be restricted by Windows NT. When activated all applicable processes will automatically shut down at a specific time and not be permitted to resume until the predetermined time. The appropriate hours of operation are determined and implemented at the State agency level.

- *Inactivity Lockout*—Access to the NT workstation is automatically locked after a specified period of inactivity.

- *Warnings*—Legal notices and security warnings display on all servers and when servers are accessed by workstations.

- *Remote Access Security*—Windows NT Remote Access Service (RAS) security handles resource access control. Access to NT resources is controlled for remote users in the same manner as local users, by utilizing Windows NT file and sharing permissions. Dial-in access can be granted or restricted on a user-by-user basis through the Windows NT RAS administration tool.

There are several levels of security found in the HELPLINE system. Windows NT provides much of the overall system security. The Windows NT security model is designed to meet the C2-level criteria as defined by the U.S. Department of Defense's Trusted Computer System Evaluation Criteria document (DoD 5200.28-STD, December 1985). Netscape Enterprise Server is the security mechanism for all HELPLINE transmission connections to the system. As a result, Netscape controls all HELPLINE information access requests. Anti-virus software is applied at both the workstation and NT server levels.

Access to different areas on the Windows NT server are maintained through the use of file, directory and share level permissions. These different levels of access control provide security that is managed at the user and group level within the NT domain. The file and directory level access controls rely on the presence of an NT File System (NTFS) hard drive partition. This provides the most robust security and is tied directly to the file system. Windows NT security is applied at both the workstation and NT server levels.

C. Procedural Safeguards

All automated systems must comply with Federal laws, guidance, and

policies for information systems security. These include, but are not limited to: the Privacy Act of 1974; the Computer Security Act of 1987; OMB Circular A-130, revised; Information Resource Management (IRM) Circular #10; DHHS Automated Information Systems Security Program; the HCFA Information Systems Security Policy and Program Handbook; and other HCFA systems security policies. Each automated information system should ensure a level of security commensurate with the level of sensitivity of the data, risk, and magnitude of the harm that may result from the loss, misuse, disclosure, or modification of the information contained in the system.

V. Effect of the Proposed System of Records on Individual Rights

HCFA proposes to establish this system in accordance with the principles and requirements of the Privacy Act and will collect, use, and disseminate information only as prescribed therein. Data in this system will be subject to the authorized releases in accordance with the routine uses identified in this system of records.

HCFA will monitor the collection and reporting of HELPLINE data. HCFA will take precautionary measures (see item IV. above) to minimize the risks of unauthorized access to the records and the potential harm to individual privacy or other personal or property rights. HCFA will collect only that information necessary to perform the system's functions. In addition, HCFA will make disclosure from the proposed system only with consent of the subject individual, or his/her legal representative, or in accordance with an applicable exception provision of the Privacy Act.

HCFA, therefore, does not anticipate an unfavorable effect on individual privacy as a result of maintaining this system of records.

Dated: March 14, 2001.

Michael M. McMullan,

Acting Deputy Administrator, Health Care Financing Administration.

09-70-0535

SYSTEM NAME:

Medicare Choices Helpline (HELPLINE), HHS/HCFA/CBS.

SECURITY CLASSIFICATION:

Level 3, Privacy Act Sensitive.

SYSTEM LOCATION:

HCFA Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244-1850.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All beneficiaries and callers to the call center who require a written response.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains the beneficiary's name and/or caller's name, social security number, Health Insurance Claim (HIC) number, phone number, and background information relating to Medicare or Medicaid related issues.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

41 CFR Chapter 101-20.302, Conduct on Federal Property, OMB Circular A-123, Internal Control Systems and Public Law 105-3, the Balanced Budget Act of 1997.

PURPOSE(S):

The primary purpose of the system of records is to provide general information to beneficiaries and future beneficiaries so that they can make informed decisions on their Medicare options.

Information retrieved from this system of records will also be used to support regulatory and policy functions performed within the agency or by a contractor or consultant; constituent requests made to a congressional representative; and litigation involving the agency related to this system of records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

The Privacy Act permits us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such compatible use of data is known as a "routine use." The proposed routine use in this system meets the compatibility requirement of the Privacy Act. HCFA is proposing to disclose information from this system of records under the following routine uses. These routine uses are discussed in detail in the attached Preamble.

1. To agency contractors, or consultants who have been engaged by the agency to assist in the performance of a service related to this system of records and who need to have access to the records in order to perform the activity.

2. To a Member of Congress or to a congressional staff member in response to an inquiry of the Congressional Office made at the written request of the constituent about whom the record is maintained.

3. To the Department of Justice (DOJ), court or adjudicatory body when:

(a) The agency or any component thereof; or

(b) Any employee of the agency in his or her official capacity; or

(c) Any employee of the agency in his or her individual capacity where the DOJ has agreed to represent the employee; or

(d) The United States Government; is a party to litigation or has an interest in such litigation, and by careful review, HCFA determines that the records are both relevant and necessary to the litigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is maintained on paper, computer diskette and on magnetic storage media.

RETRIEVABILITY:

The records are retrieved by name and identification number.

SAFEGUARDS:

HCFA has safeguards for authorized users and monitors such users to ensure against excessive or unauthorized use. Personnel having access to the system have been trained in the Privacy Act and systems security requirements. Employees who maintain records in the system are instructed not to release any data until the intended recipient agrees to implement appropriate administrative, technical, procedural, and physical safeguards sufficient to protect the confidentiality of the data and to prevent unauthorized access to the data.

In addition, HCFA has physical safeguards in place to reduce the exposure of computer equipment and thus achieve an optimum level of protection and security for the HELPLINE system. For computerized records, safeguards have been established in accordance with HHS standards and National Institute of Standards and Technology guidelines; e.g., security codes will be used, limiting access to authorized personnel. System securities are established in accordance with HHS, Information Resource Management (IRM) Circular 110, Automated Information Systems Security Program; HCFA Automated Information Systems (AIS) Guide, Systems Securities Policies; and OMB Circular No. A-130 (revised) Appendix III.

RETENTION AND DISPOSAL:

HCFA will retain HELPLINE data for a total retention of seven (7) years after the date of the response to the inquiry.

SYSTEM MANAGERS AND ADDRESS:

Director, Center for Beneficiary Services, Division of Call Center Operations, Customer Teleservice Operations Group, Center for Beneficiary Services, HCFA, 7500 Security Boulevard, C2-26-20, Baltimore, Maryland 21244-1850.

NOTIFICATION PROCEDURE:

For purpose of access, the subject individual should write to the system manager who will require the system name, health insurance claim number, and for verification purposes, the subject individual's name (woman's maiden name, if applicable), social security number (SSN) (furnishing the SSN is voluntary, but it may make searching for a record easier and prevent delay), address, date of birth, and sex.

RECORD ACCESS PROCEDURE:

For purpose of access, use the same procedures outlined in Notification Procedures above. Requestors should also reasonably specify the record contents being sought. (These procedures are in accordance with Department regulation 45 CFR 5b.5(a)(2).)

CONTESTING RECORD PROCEDURES:

The subject individual should contact the system manager named above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with Department regulation 45 CFR 5b.7.)

RECORD SOURCE CATEGORIES:

Sources of information contained in this records system include data collected from HELPLINE calls to the 1-800 Medicare Choices Helpline.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 01-7444 Filed 3-26-01; 8:45 am]

BILLING CODE 4120-03-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; "Tobacco Use Supplement to the Current Population Survey in 2001-2002"

SUMMARY: Under the provisions of section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Cancer Institute (NCI), the National

Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on December 14, 2000, pages 78176-78177 and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection

Title: Tobacco Use Supplement to the Current Population Survey in 2001-2002. Note: The previous title "American Stop Smoking Intervention Study for Cancer Prevention (ASSIST) Final Evaluation: Tobacco Use Supplement to the 1998-1999/2000 Current Population Survey" was changed to more clearly represent current and future surveillance activities and to reflect the fact that the ASSIST project has ended.

Type of information request: Revision, with change of OMB #0925-0368, Expiration 01/31/2003.

Need and Use of Information Collection: The 2001-2002 Tobacco Use Supplement to the Current Population Survey conducted by the Bureau of the Census will collect data from the civilian non-institutionalized population tobacco use and smoking prevalence, workplace smoking policies, medical and dental advice to stop smoking, and changes in smoking norms and attitudes. This survey will provide invaluable information to government agencies, other scientists and the general public necessary for tobacco control research, as well as measure progress toward tobacco control as part of the National Cancer Institute's Extraordinary Opportunities in Tobacco Research. This survey is part of a continuing series of surveys that were sponsored by NCI and fielded periodically over the 1990's by the Census Bureau as part of the American Stop Smoking Intervention Study for Cancer Prevention (ASSIST) project and made available for general public use. The Tobacco Use Supplements will be continuing over the next decade alternating between a standard or core tobacco use survey (such as the 2001-2002 survey) and a special topic survey focusing on emerging tobacco control issues. The survey will allow state

specific estimates to be made. Data will be collected in June 2001, November 2001 and February 2002 from approximately 293,000 respondents. The National Cancer Institute is co-sponsoring this survey with the Centers for Disease Control and Prevention.

Frequency of Response: One-time study.

Affected Public: Individuals or households.

Type of Respondents: Persons 15 years of age or older.

The annual reporting burden is as follows:

Estimated Number of Respondents: 97,666;

Estimated Number of Responses per Respondent: 1;

Average Burden Hours Per Response: 0.1169; and

Estimated Total Annual Burden Hours Requested: 11,417.

The annualized cost to the respondents is estimated at: \$114,173. There are no Capital Costs, Operating Costs, and/or Maintenance Costs to report.

Request for Comments

Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503. Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Anne Hartman, Health Statistician, National Cancer Institute, Executive Plaza North,