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State/Territory Name: Florida

State Plan Amendment (SPA) #: 21-0003

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
601 E. 12th St., Room 355
Kansas City, Missouri 64106



Medicaid and CHIP Operations Group

August 23, 2021

Mr. Thomas Wallace
Deputy Secretary for Medicaid
Agency for Health Care Administration
2727 Mahan Drive MS #8
Tallahassee, FL 32308

Re: Florida State Plan Amendment (SPA) 21-0003

Dear Mr. Wallace:

The Centers for Medicare & Medicaid Services (CMS) completed review of Florida's State Plan Amendment (SPA) Transmittal Number 21-0003 submitted on June 23, 2021. The purpose of this SPA is to update the reimbursement methodology for PACE. This SPA is also relocating the Medication Assisted Treatment pages from Supplement 3 to Attachment 3.1-A to Supplement 6 to Attachment 3.1-A.

We conducted our review of this amendment according to statutory requirements of Title XIX of the Social Security Act and implementing Federal regulations. This letter is to inform you that Florida Medicaid SPA Transmittal Number 21-0003 is approved effective June 1, 2021

If you have any questions regarding this amendment, please contact Cheryl L. Brimage at 404-562-7116 or via email at Cheryl.brimage@cms.hhs.gov.

Sincerely,

/s/

Bill Brooks
Director
Division of Managed Care Operations

cc: Cole Giering
Lynn DelVecchio
Cheryl Brimage

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES	1. TRANSMITTAL NUMBER <u> 2 </u> <u> 1 </u> — <u> 0 </u> <u> 0 </u> <u> 3 </u>	2. STATE FL
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	

TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE June 1, 2021
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5. TYPE OF PLAN MATERIAL (Check One)

NEW STATE PLAN AMENDMENT TO BE CONSIDERED AS NEW PLAN AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION 1905 (a)(26) and 1934 of the Act	7. FEDERAL BUDGET IMPACT a. FFY ²⁰ _____ \$ <u> 0 </u> b. FFY ²¹ _____ \$ <u> 0 </u>
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Attachment 3.1-A Supplement 3 pg 6-8	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) Attachment 3.1-A Supplement 3 pg 6-8

10. SUBJECT OF AMENDMENT
Program for the All-Inclusive Care for the Elderly (PACE)

11. GOVERNOR'S REVIEW (Check One)

GOVERNOR'S OFFICE REPORTED NO COMMENT OTHER, AS SPECIFIED
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL <u> / </u> s/	16. RETURN TO Mr. Tom Wallace Deputy Secretary for Medicaid Agency for Health Care Administration 2727 Mahan Drive, Mail Stop #8 Tallahassee, FL 32308 Attention: Cole Giering
13. TYPED NAME Tom Wallace	
14. TITLE Deputy Secretary for Medicaid	
15. DATE SUBMITTED June 23, 2021	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED June 23, 2021	18. DATE APPROVED August 23, 2021
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PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL June 1, 2021	20. SIGNATURE OF REGIONAL OFFICIAL <u> / </u> s/
21. TYPED NAME Bill Brooks	22. TITLE Director, Division of Managed Care Operations

23. REMARKS Approved with following changes to block 8 and 9 as authorize by the state on email date 08/10/21.

Block #8 changed to read: Supplement 3 to ATT 3.1-A pages 1-7(PACE)
Supplement 6 to ATT 3.1-A Pages 1-7(MAT)

Block #9 changed to read: Supplement 3 to ATT 3.1-A pages 8-15(PACE)
Supplement 3 to ATT 3.1-A Pages 1-7(MAT)

State of Florida
PACE State Plan Amendment Pre-Print

Name and address of State Administering Agency, if different from the State Medicaid Agency.

Regular Post Eligibility

The state applies post-eligibility treatment of income rules to PACE participants who are eligible under section 1902(a)(10)(A)(ii)(VI) of the Act (42 C.F.R. §435.217 of the regulations). Yes X No

Post-eligibility for states that have elected to apply the rules to PACE participants

Note: Section 2404 of the Affordable Care Act mandated that, for the five-year period beginning January 1, 2014, the definition of an “institutionalized spouse” in section 1924(h)(1) of the Social Security Act include all married individuals eligible for certain home and community-based services (HCBS), including HCBS delivered through 1915(c) waivers. As of this writing, the ACA provision has been extended through December 31, 2019. This means that married individuals eligible in the eligibility group described at 42 C.F.R. §435.217 must have their post-eligibility treatment-of-income rules determined under the rules described in section 1924(d). Because states that elect to apply post-eligibility treatment-of-income rules to PACE participants may only do so to the same extent the rules are applied to individuals eligibility under 42 C.F.R. §435.217, application of the post-eligibility treatment-of-income rules must be applied to married individuals receiving PACE services consistent with the provisions described herein under “Spousal post-eligibility” so long as the amendment to section 1924 of the Act made by the ACA remains in effect.

1. 1634 and SSI States

The State applies the post-eligibility rules to individuals who are receiving PACE services and are eligible under 42 C.F.R. §435.217 consistent with the rules of 42 C.F.R. §435.726, and, where applicable, section 1924 of the Act. Payment for PACE services is reduced by the amount remaining after deducting the following amounts from the PACE enrollee’s income.

1. Allowances for the maintenance needs of the individual (check one):

1. The amount deducted is equal to:
 - (a) _____ The SSI federal benefit rate
 - (b) _____ Medically Needy Income Level (MNIL)
 - (c) _____ The special income level standard for the institutionalized individuals eligible under section 1902(a)(10)(A)(ii)(V) of the Act
 - (d) _____ Percentage of the Federal Poverty Level: _____%
 - (e) _____ Other (specify): _____

2. _____ The following dollar amount: \$ _____
 Note: If this amount changes, this item will be revised.

3. The following formula is used to determine the needs allowance:

For individuals residing in the community (not in an ALF), the personal needs allowance shall be equal to 300% of the SSI Federal Benefit Rate (FBR).

For individuals placed in an assisted living facility (ALF), the personal needs allowance shall be calculated according to the following formula:

Three meals per day and a semi-private room (ALF Basic Monthly Charge)

+20% of Federal Poverty Level
 = Personal Needs Allowance

Note: If the amount protected for a PACE enrollee in item 1 is equal to, or greater than, the PACE enrollee's income, enter N/A in items 2 and 3.

2. Allowance for the maintenance needs of the spouse:

The amount deducted for the PACE enrollee's spouse is equal to:

1. _____ The SSI federal benefit rate
2. _____ Optional State Supplement Standard
3. _____ Medically Needy Income Level Standard
4. _____ The following dollar amount (provided it does not exceed the amount(s) described in 1-3): \$ _____
5. _____ The following percentage of the following standard that is not greater than the standards above: _____% of _____ standard.
6. _____ Not applicable (N/A)

3. Allowance of the maintenance needs of the family (check one):

1. AFDC need standard

2. _____ Medically needy income standard

The amount specified below cannot exceed the higher of the need standard for a family of the same size used to determine eligibility under the State’s approved AFDC plan or the medically needy income standard established under 435.811 for a family of the same size.

- 3. _____ The following dollar amount: \$ _____
Note: If this amount changes, this item will be revised.
- 4. _____ The following percentage of the following standard that is not greater than the standards above: _____% of _____ standard.
- 5. _____ The amount is determined using the following formula:

- 6. _____ Other
- 7. _____ Not applicable (N/A)

4. Allowance for medical and remedial care expenses, as described in 42 CFR 435.726(c)(4).

2. 209(b) States,

The State applies the post-eligibility rules to individuals who are receiving PACE services and are eligible under 42 C.F.R. §435.217 consistent with the rules of 42 C.F.R. §435.735, and, where applicable, section 1924 of the Act. Payment for PACE services is reduced by the amount remaining after deducting the following amounts from the PACE enrollee’s income.

- 1. Allowances for the maintenance needs of the individual (check one):
 - 1. The amount deducted is equal to:
 - (a) _____ The SSI federal benefit rate
 - (b) _____ Medically Needy Income Level (MNIL)
 - (c) _____ The special income level standard for the institutionalized individuals eligible under section 1902(a)(10)(A)(ii)(V) of the Act
 - (d) _____ Percentage of the Federal Poverty Level: _____%
 - (e) _____ Other (specify): _____
 - 2. _____ The following dollar amount: \$ _____
Note: If this amount changes, this item will be revised.

3. _____ The following formula is used to determine the needs allowance:

Note: If the amount protected for a PACE enrollee in item 1 is equal to, or greater than, the PACE enrollee's income, enter N/A in items 2 and 3.

2. Allowance for the maintenance needs of the spouse:

The amount deducted for the PACE enrollee's spouse is equal to:

1. _____ The more restrictive income standard established under 42 C.F.R. §435.121
2. _____ Optional State Supplement Standard
3. _____ Medically Needy Income Level Standard
4. _____ The following dollar amount (provided it does not exceed the amount(s) described in 1-3): \$ _____
5. _____ The following percentage of the following standard that is not greater than the standards above: _____% of _____ standard.
6. _____ Not applicable (N/A)

3. Allowance of the maintenance needs of the family (check one):

1. _____ AFDC need standard
2. _____ Medically needy income standard

The amount specified below cannot exceed the higher of the need standard for a family of the same size used to determine eligibility under the State's approved AFDC plan or the medically needy income standard established under 435.811 for a family of the same size.

3. _____ The following dollar amount: \$ _____
Note: If this amount changes, this item will be revised.
4. _____ The following percentage of the following standard that is not greater than the standards above: _____% of _____ standard.
5. _____ The amount is determined using the following formula:

6. _____ Other
7. _____ Not applicable (N/A)

4. Allowance for medical and remedial care expenses, as described in 42 CFR 435.735 (c)(4).

Spousal Post Eligibility

State uses the post-eligibility rules of Section 1924 of the Act (spousal impoverishment protection) to determine the individual's contribution toward the cost of PACE services if it determines the individual's eligibility under section 1924 of the Act. There shall be deducted from the individual's monthly income a personal needs allowance (as specified below), and a community spouse's allowance consistent with the minimum monthly maintenance needs allowance described in section 1924(d), a family allowance, for each family member, calculated as directed by section 1924(d)(1)(C), and an amount for incurred expenses for medical or remedial care, as specified in the State Medicaid plan.

Yes No

Note: states must elect the use the post-eligibility treatment-of-income rules in section 1924 of the Act in the circumstances described in the preface to this section.

(a.) Allowances for the needs of the:

1. Individual (check one)

(A) The following standard included under the State plan (check one):

1. SSI
2. Medically Needy
3. The special income level for the institutionalized
4. Percent of the Federal Poverty Level: _____%
5. Other (specify): _____

(B) The following dollar amount: \$ _____
Note: If this amount changes, this item will be revised.

(C) The following formula is used to determine the needs allowance:

For individuals residing in the community (not in an ALF), the personal needs allowance shall be equal to 300% of the SSI Federal Benefit Rate (FBR).

For individuals placed in an assisted living facility (ALF), the personal needs allowance shall be calculated according to the following formula:

Three meals per day and a semi-private room (ALF Basic Monthly Charge)

+20% of Federal Poverty Level
= Personal Needs Allowance

If this amount is different than the amount used for the individual's maintenance allowance under 42 CFR 435.726 or 42 CFR 435.735, explain why you believe that this amount is reasonable to meet the individual's maintenance needs in the community:

II. Rates and Payments

A. The State assures CMS that the capitated rates will be less than the cost to the agency of providing State plan approved services to an equivalent non-enrolled population group based upon the following methodology. Please attach a description of the negotiated rate setting methodology and how the State will ensure that rates are less than the amount the state would have otherwise paid for a comparable population.

- 1. X Rates are set at a percent of the amount that would otherwise been paid for a comparable population.
- 2. Experience-based (contractors/State's cost experience or encounter date)(please describe)
- 3. Adjusted Community Rate (please describe)
- 4. Other (please describe)

The following describes the method that is used to develop the amount that would otherwise have been paid (AWOP) for the PACE contracts. Florida uses an actuarial firm to calculate the AWOP.

In order to estimate the AWOP, the services are considered in three separate categories for an equivalent non-enrolled population group:

- 1. Long-term care (LTC) services covered by Medicaid.
- 2. Acute care services covered by Medicaid.
- 3. Dental services covered by Medicaid.

The projected nursing home and home and community-based service components plus the acute care and dental services are blended to establish an AWOP. The Agency may

implement separate AWOP for dual eligible and Medicaid-only PACE enrollees or other sub-groups.

After the AWOP amounts are calculated, the Agency will negotiate with PACE organizations a per-member-per-month (PMPM) payment rate based on a percentage of the PACE AWOP. The final rate(s) will never be equal to or more than the PACE AWOP.

- B. The State Medicaid Agency assures that the rates were set in a reasonable and predictable manner.
- C. The State will submit all capitated rates to the CMS Regional Office for prior approval, and will include the name, organizational affiliate of any actuary used, and attestation/description of the capitation rates.

III. Enrollment and Disenrollment

The State assures that there is a process in place to provide for dissemination of enrollment and disenrollment data between the State and the State Administering Agency. The State assures that it has developed and will implement procedures for the enrollment and disenrollment of participants in the State's management information system, including procedures for any adjustment to account for the difference between the estimated number of participants on which the prospective monthly payment was based and the actual number of participants in that month.

State of Florida

1905(a)(29) Medication-Assisted Treatment (MAT)

Citation: 3.1(a)(1) Amount, Duration, and Scope of Services: Categorically Needy
(Continued)

1905(a)(29) X MAT as described and limited in Supplement 3 to Attachment 3.1-A.

ATTACHMENT 3.1-A identifies the medical and remedial services provided to the categorically needy.

TN: 2021-0003
Supersedes: 2021-0001
Effective Date: 6/1/2021
Approved: 08/23/2021

State of Florida

1905(a)(29) Medication-Assisted Treatment (MAT)

Citation: 3.1(a)(1) Amount, Duration, and Scope of Services: Categorically Needy
(Continued)

i. General Assurance

MAT is covered for all Medicaid beneficiaries who meet the medical necessity criteria for receipt of the service for the period beginning October 1, 2020 and ending September 30, 2025.

ii. Assurances

- a. The state assures coverage of Naltrexone, Buprenorphine, and Methadone and all of the forms of these drugs for MAT that are approved under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and all biological products licensed under section 351 of the Public Health Service Act (42 U.S.C. 262).
- b. The state assures that Methadone for MAT is provided by Opioid Treatment Programs that meet the requirements in 42 C.F.R. Part 8.
- c. The state assures coverage for all formulations of MAT drugs and biologicals for Opioid Use Disorder (OUD) that are approved under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and all biological products licensed under section 351 of the Public Health Service Act (42 U.S.C. 262).

iii. Service Package

The state covers the following counseling services and behavioral health therapies as part of MAT.

- a. Please set forth each service and components of each service (if applicable), along with a description of each service and component service.

MAT in Opioid Treatment Program (OTP)

MAT services rendered within the scope of an OTP include:

- o Medically necessary behavioral health and prescription drug services for the treatment of OUD, including methadone administration, counseling, case review, and medication monitoring.

MAT in Office-Based Opioid Treatment (OBOT)

MAT Behavioral Health Services

MAT behavioral health services for the treatment of OUD includes counseling services such as individual and group counseling sessions.

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State of Florida

1905(a)(29) Medication-Assisted Treatment (MAT)

Citation: 3.1(a)(1) Amount, Duration, and Scope of Services: Categorically Needy
(Continued)

Additional MAT Coverage

Additional MAT Coverage for the treatment of OUD includes medical assessment, and subsequent prescription(s).

For the period of October 1, 2020, through September 30, 2025 Medication Assisted Treatment (MAT) to treat Opioid Use Disorder (OUD) is covered exclusively under section 1905(a)(29).

- b. Please include each practitioner and provider entity that furnishes each service and component service.

Opioid Treatment Program (OTP)

OTPs render MAT for opioid addiction delivered under the supervision of a physician or psychiatrist.

Medication administration and monitoring is provided by physicians, physician assistants, nurses, or nurse practitioners licensed in the State of Florida and working within the scope of their practice.

Counseling services are provided by:

- Licensed professionals working within the scope of practice;
- Unlicensed professionals working under the direct supervision of a licensed qualified professional:
 - Registered marriage and family therapy, clinical social work, and mental health counseling interns;
 - Certified master's degree level addiction professionals who are certified by the Florida Certification Board;
 - Certified addictions professionals who are certified by the Florida Certification Board;
 - Certified addiction counselors who are certified by the Florida Certification Board.
 - Certified recovery peer specialists
 - Certified recovery support specialists

Office Based Opioid Treatment (OBOT)

The following providers can deliver all aspects of the MAT for OUD service benefit:

- Physicians, physician assistants, nurses, or nurse practitioners licensed in the State of Florida and working within the scope of their practice.

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State of Florida

1905(a)(29) Medication-Assisted Treatment (MAT)

Citation: 3.1(a)(1) Amount, Duration, and Scope of Services: Categorically Needy
(Continued)

The following providers can provide individual, family, or group counseling:

- Physicians licensed in the State of Florida and working within the scope of their practice.
- Psychiatric advanced practice registered nurses licensed in the State of Florida working within their scope of practice
- Mental health professionals licensed in the State of Florida working within their scope of their practice
- Master's level certified addiction professionals
- Master's level practitioners

The following providers can provide group counseling:

- Psychiatric nurses licensed in the State of Florida working within the scope of their practice
- Bachelor's level practitioners
- Certified addiction professionals

The following providers can deliver MAT for OUD-related services to recipients under the terms of a collaborative pharmacy practice agreement with a licensed physician:

- Pharmacists licensed in the State of Florida and working within their scope of practice.

c. Please include a brief summary of the qualifications for each practitioner or provider entity that the state requires. Include any licensure, certification, registration, education, experience, training and supervisory arrangements that the state requires.

- Physicians licensed in the State of Florida and working within the scope of their practice.
- Psychiatric advanced practice registered nurses licensed in the State of Florida working within their scope of practice.
- Nurses licensed in the State of Florida and working within the scope of their practice.
- Physician assistants licensed in the State of Florida and working within the scope of their practice.
- Mental health professionals licensed in the State of Florida and working within the scope of their practice.
- Pharmacists licensed in the State of Florida and working within their scope of practice.

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State of Florida

1905(a)(29) Medication-Assisted Treatment (MAT)

Citation: 3.1(a)(1) Amount, Duration, and Scope of Services: Categorically Needy
(Continued)

- Registered marriage and family therapy, clinical social work, and mental health counseling interns who:
 - hold a degree from an accredited university or college with a major in counseling, social work, psychology, nursing, rehabilitation, special education, health education, or a related human services field
- Certified master's degree level addiction professionals who:
 - hold a Master's degree from an accredited university or college with a major in counseling, social work, psychology, nursing, rehabilitation, special education, health education, or a related human services field and are certified by the Florida Certification Board;
- Certified addictions professionals who:
 - hold a Bachelor's degree from an accredited university or college with a major in counseling, social work, psychology, nursing, rehabilitation, special education, health education, or a related human services field
 - are certified by the Florida Certification Board;
- Certified addiction counselors who:
 - hold a Bachelor's degree from an accredited university or college with a major in counseling, social work, psychology, nursing, rehabilitation, special education, health education, or a related human services field
 - are certified by the Florida Certification Board.
- Certified recovery peer specialists and certified recovery support specialists who:
 - have a minimum of three (3) years of experience providing recovery support services to individuals with substance use disorders;
 - are certified by the Florida Certification Board.
 - Recovery support specialists and recovery peer specialists are allowed one year from the date of their employment to obtain certification through the Florida Certification Board.

Providers that administer Methadone through MAT must meet the requirements in 42 C.F.R. Part 8 and be certified as an Opioid Treatment Program by the Federal Substance Abuse and Mental Health Services Administration. (other requirements are in (b) above)

iv. Utilization Controls

The state has drug utilization controls in place. (Check each of the following that apply)

- Generic first policy
- Preferred drug lists
- Clinical criteria

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1905(a)(29) Medication-Assisted Treatment (MAT)

Citation: 3.1(a)(1) Amount, Duration, and Scope of Services: Categorically Needy
(Continued)

 X Quantity limits

 The state does not have drug utilization controls in place.

v. Limitations

Describe the state's limitations on amount, duration, and scope of MAT drugs, biologicals, and counseling and behavioral therapies related to MAT.

MAT Behavioral Health Services

MAT behavioral health services for the treatment of OUD includes counseling and Methadone administration. :

- Services are limited in amount, duration, and scope to:
 - mental health and substance abuse services that are provided for the maximum reduction of the recipient's mental health
 - substance abuse disability and restoration to the best possible functional level.
 - those which are medically necessary and are recommended by a licensed practitioner, psychiatrist, or other physician and included in a treatment plan.

MAT services for the treatment of OUD through an Opioid Treatment Program (OTP) are limited to 52 visits per state fiscal year. Exceptions to these service limitations can be granted with prior authorization based on medical necessity.

MAT for OUD in a non-OTP

Counseling limit is 136 15-minute units per fiscal year of individual counseling; group counseling limit is 174 15-minute units per fiscal year. Exceptions to these service limitations can be granted with prior authorization based on medical necessity.

MAT Prescribed Drugs

MAT medications are reviewed by the State's Pharmaceutical and Therapeutics (P&T) Committee to determine inclusion on the preferred drug list. Age and quantity limits are based on the manufacturer's prescribing information and evaluation of usage by the State and/or the Drug Utilization Review Board, as defined in section 4.26 of this plan.

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State of Florida

1905(a)(29) Medication-Assisted Treatment (MAT)

Citation: 3.1(a)(1) Amount, Duration, and Scope of Services: Categorically Needy
(Continued)

PRA Disclosure Statement - This information is being collected to assist the Centers for Medicare & Medicaid Services in implementing section 1006(b) of the SUPPORT for Patients and Communities Act (P.L. 115-271) enacted on 10/24/2018. Section 1006(b) requires state Medicaid plans to provide coverage of Medication-Assisted Treatment (MAT) for all Medicaid enrollees as a mandatory Medicaid state plan benefit for the period beginning October 1, 2020, and ending September 30, 2025. Under the Privacy Act of 1974 any personally identifying information obtained will be kept private to the extent of the law. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. The OMB control number for this project is 0938-1148 (CMS-10398 # 68). Public burden for all of the collection of information requirements under this control number is estimated to take about 80 hours per response. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to CMS, 7500 Security Boulevard, Attn: Paperwork Reduction Act Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.

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