

appearing below the YouTube videos. Warner Bros. did not require the YouTube influencers to place a sponsorship disclosure clearly and conspicuously in the video itself. Nor did Warner Bros. require that the YouTube influencers be instructed to place the sponsorship disclosure “above the fold” in the description box, or visible without consumers having to scroll down or click on a link, as it had for other promotional information about *Shadow of Mordor*. (See, e.g., Exhibit A–1) As a result, most YouTube influencers did not include any sponsorship disclosures in their videos, and only placed their sponsorship disclosures “below the fold” in the description box below the video. Therefore, consumers had to click on a “Show More” button in the description box and potentially scroll down before they could see the sponsorship disclosure. As a result, consumers who watched these YouTube videos were unlikely to learn that the videos were paid promotions for Warner Bros.

The Commission’s complaint further alleges that when YouTube influencers posted their *Shadow of Mordor* videos for viewing on Facebook or Twitter, consumers were even less likely to see these sponsorship disclosures because such posts did not include the “Show More” button. In addition, the complaint states that on at least two occasions, the influencers disclosed only that they had been given early access to the game, and did not adequately disclose that they had also been paid to post the video.

According to the complaint, in numerous instances, YouTube influencers did not disclose or adequately disclose that Warner Bros., through Plaid Social, offered compensation to the influencers in exchange for creating and uploading gameplay videos as part of a *Shadow of Mordor* advertising campaign. The Commission’s complaint alleges that these videos were false and misleading because they did not reflect the independent opinions or experiences of impartial video game enthusiasts. The complaint further alleges that the videos were deceptive because they failed to disclose or disclose adequately that the influencers who posted the videos were compensated in connection with their endorsements.

The proposed order includes injunctive relief to address these alleged violations and requires Warner Bros. to follow certain monitoring and compliance procedures related to its use of influencer campaigns.

Part I of the proposed order prohibits Warner Bros., in connection with the

advertising of any home entertainment product or service, from misrepresenting in any influencer campaign that an influencer or endorser of such product or service is an independent user or ordinary consumer of the product or service.

Part II of the proposed order requires Warner Bros., in connection with the advertising of any home entertainment product or service by means of an endorsement, in any influencer campaign, to disclose clearly and conspicuously a material connection, if one exists, between the influencer or endorser and Warner Bros.

Part III of the proposed order sets out certain monitoring and compliance obligations to ensure that Warner Bros., or any entity it engages to conduct an influencer campaign, comply with Parts I and II of the proposed order. These obligations include: Obtaining signed acknowledgements from such influencers that they will disclose their material connection to Warner Bros.; monitoring the influencers’ representations and disclosures; maintaining records of monitoring efforts; and, under certain circumstances, terminating and ceasing payment to influencers who misrepresent their independence, or fail to properly disclose any material connection to Warner Bros. Part III specifically provides that if Warner Bros. engages an entity to conduct an influencer campaign, Warner Bros. must take steps to ensure that the entity complies with this Part, and to monitor its compliance. If the entity fails to comply with this Part, Warner Bros. must cease payment to the entity until it cures any noncompliance.

Furthermore, Warner Bros. is required to disqualify the entity from conducting future influencer campaigns upon a repeat incident, unless it reasonably concludes that the entity’s failure to comply was inadvertent.

Part IV of the proposed order contains recordkeeping requirements for relevant documents.

Parts V through VII of the proposed order require the company to: Provide copies of the order to certain personnel having responsibilities with respect to the subject matter of the order; notify the Commission of changes in corporate structure that might affect compliance obligations under the order; and file compliance reports with the Commission.

Part VIII of the proposed order provides that the order will terminate after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the

proposed order, and it is not intended to constitute an official interpretation of the complaint or proposed order, or to modify the proposed order’s terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2016–16729 Filed 7–14–16; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–339 and CMS–460]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS’ intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates 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.

DATES: Comments must be received by September 13, 2016.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to <http://www.regulations.gov>. Follow the

instructions for “Comment or Submission” or “More Search Options” to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4-26-05, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of the following:

1. Access CMS’ Web site address at <http://www.cms.hhs.gov/PaperworkReductionActof1995>.
2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to Paperwork@cms.hhs.gov.
3. Call the Reports Clearance Office at (410) 786-1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786-1326.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection’s supporting statement and associated materials (see **ADDRESSES**).

CMS-339 Provider Cost Report Reimbursement Questionnaire

CMS-460 Medicare Participation Agreement for Physicians and Suppliers

Under the PRA (44 U.S.C. 3501-3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term “collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this

requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Provider Cost Report Reimbursement Questionnaire; *Use:* The information collected in this form (Exhibits 1 and 2) is authorized under Sections 1815(a) and 1833(e) of the Social Security Act, 42 U.S.C. 1395g. Regulations at 42 CFR 413.20 and 413.24 require providers to submit financial and statistical records to verify the cost data disclosed on their annual Medicare cost report. Providers participating in the Medicare program are reimbursed for furnishing covered services to eligible beneficiaries on the basis of an annual cost report (filed with the provider’s MAC) in which the proper reimbursement is computed. Consequently, it is necessary to collect this documentation of providers’ costs and activities that supports the Medicare cost report data in order to ensure proper Medicare reimbursement to providers. *Form Number:* CMS-339 (OMB control number: 0938-0301); *Frequency:* Yearly; *Affected Public:* Private sector (Business or other For-profits); *Number of Respondents:* 2,273; *Total Annual Responses:* 2,273; *Total Annual Hours:* 15,911. (For policy questions regarding this collection contact Christine Dobrzycki at 410-786-3389.)

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicare Participation Agreement for Physicians and Suppliers; *Use:* Section 1842(h) of the Social Security Act permits physicians and suppliers to voluntarily participate in Medicare Part B by agreeing to take assignment on all claims for services to Medicare beneficiaries. The law also requires that the Secretary provide specific benefits to the physicians, suppliers and other persons who choose to participate. The CMS-460 is the agreement by which the physician or supplier elects to participate in Medicare. *Form Number:* CMS-460 (OMB control number: 0938-0373); *Frequency:* Yearly; *Affected Public:* Private sector (Business or other For-profits); *Number of Respondents:* 120,000; *Total Annual Responses:* 120,000; *Total Annual Hours:* 30,000. (For policy questions regarding this collection contact Mark Baldwin at 410-786-8139.)

Dated: July 12, 2016.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-3333-N2]

Medicare Program; Announcement of Requirements and Registration for the MIPS Mobile Challenge; Deadline Extension

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

ACTION: Notice.

SUMMARY: This notice launches a challenge related to the new Merit-based Incentive Payment System (MIPS) program, which will assist the Centers for Medicare & Medicaid Services (CMS) in accelerating the transition from the traditional fee-for-service payment model to a system that rewards health care providers for providing better care, not just more care. This challenge will address one of the most important aspects of our programs, which is educating and providing outreach to the potential hundreds of thousands of MIPS eligible clinicians.

DATES: Important dates concerning the Challenge include the following:

MIPS Mobile Challenge: To be announced on www.challenge.gov and opened for submissions in www.challenge.gov April 25, 2016.

Deadline for Phase I Submissions: August 15, 2016.

HHS announces top three-five challenge applicants and launches Phase II. Applicants that did not win Phase I will be permitted to compete for Phase II: August 30, 2016.

Deadline for Phase II Submissions: October 31, 2016.

HHS announces grand prize winner: November 15, 2016 (tentative).

FOR FURTHER INFORMATION CONTACT: Stan Ostrow, (410) 786-7207 for inquiry on Information Systems Group.

SUPPLEMENTARY INFORMATION:

I. Background

The Medicare Access and CHIP Reauthorization Act of 2015 (Pub. L. 114-10, enacted April 16, 2015) (MACRA) requires the Secretary to establish a new Merit-based Incentive Payment System (MIPS) program, which