

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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January 12, 2022

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services
7500 Security Blvd.
Baltimore, MD 21244

Dear Administrator Brooks-LaSure:

We are writing to request information regarding the Centers for Medicare and Medicaid Services' implementation of the Creating Advanced Streamlined Electronic Services for Constituents Act of 2019, known as the CASES Act, enacted on August 22, 2019.¹ Consistent implementation of the law is crucial to avoid putting additional burdens on constituents seeking assistance with federal agencies and to fulfill congressional intent to simplify the casework process. Your input will inform future oversight efforts of CASES Act implementation.

The public relies on the government for many essential benefits and services. Americans aged 65 and older, for example, rely on the Centers for Medicare and Medicaid Services to provide them reliable and affordable healthcare in the form of Medicare. Individuals need the government when they are most vulnerable—because a flood destroyed their home, the pandemic affected their small business or forced them to get laid off, or they returned from a war zone and need mental and physical health care resulting from their service to this nation. Navigating these federal services can be confusing and cumbersome, so constituents often seek help from their members of Congress.

Prior to the passage of the CASES Act, the law required constituents to fax, scan, or mail a sheet of paper to their member of Congress simply to *authorize* the congressional office to work with relevant federal agencies on their behalf. In particular, the Privacy Act of 1974 “prohibits disclosure by Federal agencies of any record contained in a system of records, except pursuant to a written request by or with the prior written consent of the individual to whom the record pertains.”² This provision required congressional offices to seek **written** authorization from constituents before working with relevant federal agencies to resolve their case, putting undue burden on constituents and caseworkers alike.

¹ Pub. L. No. 116-50, 133 Stat. 1073 (2019).

² Pub. L. No. 93-579 (1974).

Congress passed the bipartisan CASES Act to change this. The law amends the outdated provision of the Privacy Act of 1974 and requires agencies to accept digital signatures for privacy authorization forms that enable members of Congress to work with federal agencies on behalf of their constituents. In short, Congress intended for the CASES Act to make it easier for members to help constituents engage with the federal government.

In particular, the CASES Act requires the Office of Management and Budget (OMB) to issue guidance that “requires each agency to accept electronic identity proofing and authentication processes for the purposes of allowing an individual to provide prior written consent for the disclosure of the individual’s records” under the Privacy Act.³ OMB promulgated such guidance on November 12, 2020, mandating that agencies accept online digital forms and remote identity-proofing and authentication for these purposes. The guidance directed agencies to implement the specified requirements within one year, by November 12, 2021.⁴

OMB’s guidance compels federal agencies to implement their own remote identity-proofing and digital privacy request form solutions. If done right, a streamlined implementation of the CASES Act will reduce burden on agencies, caseworkers, and the public. These goals are aligned with President Biden’s Executive Order, “Transforming Federal Customer Experience and Service Delivery to Rebuild Trust in Government,” which “directs Federal agencies to put *people* at the center of everything Government does.”⁵

To evaluate your agency’s progress in implementing the CASES Act, please respond to the following questions:

1. Please provide the status of your agency’s implementation of the requirement in the CASES Act and the OMB guidance that agencies accept “remote identity-proofing and authentication through digital processes,” including the final date of implementation.⁶
 - a. Does your agency plan to utilize login.gov, a shared service digital identity solution implemented by the General Services Administration?⁷ If not, what solution does it plan to use?

³ Pub. L. No. 116-50 (2019).

⁴ Memorandum from Director Russell T. Vought, Office of Management and Budget, to the Heads of Executive Departments and Agencies, *Modernizing Access to and Consent for Disclosure of Records Subject to the Privacy Act* (Nov. 12, 2020) (online at www.whitehouse.gov/wp-content/uploads/2020/11/M-21-04.pdf).

⁵ Exec. Order No. 14058, 86 Fed. Reg. 71357 (Dec. 16, 2021).

⁶ Memorandum from Director Russell T. Vought, Office of Management and Budget, to the Heads of Executive Departments and Agencies, *Modernizing Access to and Consent for Disclosure of Records Subject to the Privacy Act* (Nov. 12, 2020) (online at www.whitehouse.gov/wp-content/uploads/2020/11/M-21-04.pdf).

⁷ Login.gov, *Home Page* (online at www.login.gov) (accessed Dec. 16, 2021).

- b. If a constituent is unable or unwilling to use your agency’s remote identity-proofing solution, how else will they be able to prove their identity?
 - c. Do you plan to undertake user testing to ensure that the remote identity-proofing solution your agency adopts is user-friendly, intuitive, and based in a customer-focused design?
 2. OMB guidance requires that as
 - agencies determine the specific information required to verify an individual’s identity, establish consent, and identify relevant records, they should apply the minimization principle ... and ensure that they limit the collection of personally identifiable information to the minimum that is directly relevant and necessary for this purpose.

Please describe how your agency is applying the minimization principle to the most common records requests from congressional offices.

 - a. Please share the access and consent forms your agency plans to post (or has already posted) on [cms.gov/privacy](https://www.cms.gov/privacy), as required by OMB guidance.
 - b. If your agency uses the Social Security number as a personal identifier, have you explored alternatives?
 3. OMB guidance requires that agencies “provide a digital service option to ensure that individuals have the ability to digitally request access to or consent to disclosure of their records.” How will your agency’s digital service option—including its remote identity proofing solution and access and consent forms—reduce administrative burden, address inequities, and streamline existing casework processes, in alignment with the Biden-Harris Management Agenda?⁸
 4. Describe your agency’s plan to communicate CASES Act policies and procedures to congressional liaisons in its Office of Legislation and to caseworkers in congressional offices.
 5. Are there any obstacles to your agency’s user-centric implementation of the CASES Act? If so, please describe those obstacles.

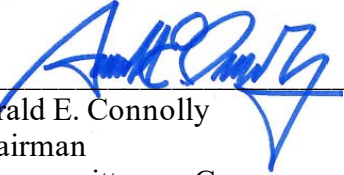
Thank you for your attention to this matter. Proper implementation of the CASES Act will significantly improve the process and quality of assistance Americans receive when

⁸ President’s Management Agenda, *The Biden-Harris Management Agenda Vision: Toward an Equitable, Effective, and Accountable Government that Delivers Results for All* (online at https://assets.performance.gov/PMA/Biden-Harris_Management_Agenda_Vision_11-18.pdf) (accessed Dec. 6, 2021).

engaging with your agency. We look forward to learning about your implementation progress on the CASES Act. Please provide the requested information by February 2, 2022.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. If you have any questions regarding this request, please contact Committee staff at (202) 225-5051.

Sincerely,



Gerald E. Connolly
Chairman
Subcommittee on Government
Operations



Jody Hice
Ranking Member
Subcommittee on Government
Operations