

**Supporting Statement for the Collection of Information Requirements Contained in the
Request for Adjustment to the MLR Standard for a State's Individual Market
(CMS-10361 – OMB Control No. 0938-1114)**

A. Justification

1. Circumstances Making the Collection of Information Necessary

Under section 2718 of the Public Health Service Act (PHS Act) a health insurance issuer (issuer) offering group or individual health insurance coverage must submit an annual report to the Secretary beginning in June of 2012 for calendar year 2011. The report will allow for the calculation of an issuer's medical loss ratio (MLR) by market (individual, small group, and large group) within each State in which the issuer conducts business. The PHS Act establishes a MLR standard for each market segment that issuers must meet. In addition, to the extent that an issuer does not meet the MLR standard, it must provide pro rata rebates of premiums to enrollees.

Section 2718(b)(1)(A)(ii) allows the Secretary to lower the 80% MLR standard in the individual market on a State-by-State basis if the individual market in a State may be destabilized by the application of the statutory MLR standard. An interim final rule (IFR) implementing the MLR was published on December 1, 2010 (75 FR 74865) (and modified by technical corrections on December 30, 2010 (75 FR 82277)), which added Part 158 to Title 45 of the Code of Federal Regulations. The IFR is effective January 1, 2011. Under 45 CFR §158.301 (75 FR 74864, 74930), States requesting that HHS lower the MLR standard must submit information to the Secretary that supports their assertion that the individual market in their state may destabilize absent an adjustment to the MLR standard. Much of the information requested is currently only available at the State level. HHS must obtain such key information in order to ascertain whether destabilization has a high likelihood of occurring.

Application for Adjustment to MLR

In order to complete the application, 45 CFR §158.321 requires that a State provide the following information:

- the State's current MLR standard, if any;
- the State's market withdrawal requirements;
- the mechanisms available to the State to provide options to consumers in case of issuer withdrawal; and
- information on issuers in the State's individual market.

In addition, a State must provide its own proposal as to the adjustment it seeks to the MLR standard (45 CFR §158.322) and the contact information of the person the Secretary may contact regarding the application (45 CFR §158.323).

2. Purpose and Use of Information Collection

The State application will be used by HHS to determine whether an adjustment to the MLR standard in a State's individual market is warranted to prevent market destabilization. HHS will post on the internet all of the information submitted by the State as part of its application (45 CFR §158.341).

3. Use of Improved Information Technology and Burden Reduction

All information collected in the application must be submitted electronically. All of the data required by 45 CFR § 158.321(d) must be submitted in an Excel spreadsheet. HHS staff will analyze the information submitted and will communicate with respondents using email and telephone.

4. Efforts to Identify Duplication and Use of Similar Information

As the MLR standard was established by the Affordable Care Act, the proposed collection of information has never been collected by the Federal government.

5. Impact on Small Businesses or Other Small Entities

Not applicable.

6. Consequences of Collecting the Information Less Frequent Collection

The application process is voluntary. We expect that over time fewer States will apply for an adjustment to the MLR standard for the individual market as health insurance issuers become accustomed to the new MLR requirements. We have set up a system where States apply for an adjustment to the MLR standard for up to three years as transition to 2014.

7. Special Circumstances Relating to the Guidelines of 5 CFR 1320.5

No special circumstance.

8. Comments in Response to the Federal Register Notice/Outside Consultation

The 60-day *Federal Register* notice published on April 1, 2011.

9. Explanation of any Payment/Gift to Respondents

Not applicable.

10. Assurance of Confidentiality Provided to Respondents

No personal health information will be collected. All information will be kept private to the extent allowed by applicable laws/regulations.

11. Justification for Sensitive Questions

No sensitive information will be collected.

12. Estimates of Annualized Burden Hours (Total Hours & Wages)

CCIIO estimates that it will take ten working days for a State to complete the application. The time burden estimate is uncertain because some States may have better access to the required application information elements while other States may have to obtain some of the required information from health insurance issuers in their States, which could increase their burden. It is estimated that approximately 20 States will submit applications. This estimate is based on preliminary data analysis and indications by a few States that they may apply for an adjustment.

Each State will develop and submit one application per adjustment request. The average burden for each State is expected to be approximately 185 hours (185 hours x 1 application = 185 hours/per respondent). The total burden hours associated with this application for adjustment to the MLR standard for 20 States is 3,700 hours (185 hours/per application x 20 respondents/States = 3,700 hours).

Estimated Annualized Burden Table for State Individual Market Application

Forms (If necessary)	Type of Respondent	Number of Respondents	Number of Responses per Respondent	Average Burden hours per Response	Total Burden Hours
MLR Adjustment Application (no specific form)	State	20	1	185	3,700

Total		20	1	185	3,700
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CCIIO estimates that it will cost each State \$28,000 (185 hours/per respondent) to prepare an application for adjustment to the MLR Standard. The total cost burden for all respondents is expected to be \$560,000 (\$28,000 per respondent x 20 respondents/States = \$560,000). The estimated annual cost burden to States is based on information obtained from interviews with two former State Insurance Commissioners, a former health issuer employee, and a former State Insurance Department actuary.

Cost Estimate for All Respondents Completing the MLR Adjustment Application

Type of respondent	Number of Respondents	Number of Responses per Respondent	Average Burden Hours	Wage per Hour (including fringe)	Burden Costs Per Response	Total Burden Costs
Commissioner	20	1	5	\$450	\$2,250	\$45,000
Senior General Counsel	20	1	10	\$350	\$3,500	\$70,000
Junior General Counsel	20	1	20	\$175	\$3,500	\$70,000
Other Professional Staff Development of Application	20	1	150	\$125	\$18,750	\$375,000
Total	20	1	185		\$28,000	\$560,000

This estimate includes all of the hours it would take a State to complete an application, including gathering data, developing data analyses, synthesizing information, developing the proposed adjusted MLR standard, and submitting the application electronically to HHS. The estimates were developed by interviewing a former insurance commissioner, a former insurance department actuary, and a former health plan employee familiar with the burden of submitting financial data to health insurance departments.

13. Estimates of other Total Annual Cost Burden to Respondents or Record Keepers /Capital Costs

The application process does not explicitly require the State to retain supporting documentation; however, we expect that the State would do so. We estimate that the

retention of these documents would fall under normal state record retention practices and therefore would have a marginal annual cost to each respondent.

14. Annualized Cost to Federal Government

This is the cost to government to review the waiver applications.

Type Federal employee support	Total Burden Hours per reviewer	Total reviewers	Hourly Wage Rate¹	Total Federal Government Costs
State Adjustment Application Reviewer	200 hrs (~ 20 applications total at 10 hours labor per review)	3	\$72	\$43,200
Total				\$43,200

15. Explanation for Program Changes or Adjustments

Section 2718 of the Affordable Care Act creates for the first time a Federal requirement that health insurance issuers meet minimum MLR standards.

16. Plans for Tabulation and Publication and Project Time Schedule

HHS will publish all State MLR adjustment application information, as it is received, as well as our disposition of each application.

17. Reason(s) Display of OMB Expiration Date is Inappropriate

Not applicable.

18. Exceptions to Certification for Paperwork Reduction Act Submissions

There are no exceptions to the certification.

¹ Salaries are based on a 14 Grade/Step 1 in Washington DC area with the allowance up to \$150,000 to include fringe.

B. Collection of Information Employing Statistical Methods

Not applicable. The information collection does not employ statistical methods.