Supporting Statement
Medical Loss Ratio Annual Reports, MLR Notices, and Recordkeeping Requirements
(CMS-10418 -OCN 0938-1164)

A. Justification

1. Circumstances Making the Collection of Information Necessary

Section 2718 of the Public Health Services Act (PHS Act) requires a health insurance issuer (issuer) offering group or individual health insurance coverage to submit a report to the Secretary of HHS concerning the amount the issuer spends each year on claims, quality improvement expenses, non-claims costs, Federal and State taxes, licensing and regulatory fees, and earned premium. An issuer must provide a rebate to policyholders if the amount it spends in a reporting year on certain costs compared to its premium revenue (excluding Federal and States taxes and licensing and regulatory fees) is below a certain ratio, referred to as the medical loss ratio (MLR). Specifically, section 2718(b) requires an issuer to provide a rebate to each of its policyholders if the MLR for the respective reporting year is less than 85 percent in the large group market or less than 80 percent in the small group or individual market. The implementing regulations for this provision are located in Part 158 to Title 45 of the Code of Federal Regulations.

The following information collections are included in this request:

Annual Report. Under 45 CFR §158.110, issuers are required to submit an annual report to the Secretary by June 1 of the year following the end of an MLR reporting year. The annual report must be submitted to the Secretary by June 1, 2013 for the 2012 reporting year. Section 45 CFR §§158.120 through 158.260 set out the data requirements for this report. In addition, under 45 CFR §158.260, each issuer must also submit a report to the Secretary concerning the rebates provided to and on behalf of enrollees. Section 158.260 requires that this report be submitted with the annual report under §158.110. The annual reporting form for the 2011 reporting year was approved by OMB Control Number 0938-1164. This information collection simply updates for 2012 and simplifies the annual reporting form that was already approved.

Notices. As specified in 45 CFR §158.240(a), an issuer must provide rebates to enrollees and policyholders on behalf of enrollees when the issuer's MLR does not meet the applicable minimum MLR standard. Section 45 CFR §158.250 requires an issuer to provide information in the form of a rebate notice to policyholders who are owed a rebate and subscribers whose policyholders are owed a rebate. As also provided in 45 CFR §158.250, CMS has developed a standard form for the rebate notice that each issuer must send by August 1 of the year following the reporting year for which policyholders are entitled to a rebate. The standard rebate notice for the 2012 MLR reporting year must be sent by August 1, 2013. The rebate notices were already approved by OMB Control Number 0938-1164. These notices are not being revised at this time, although the burden estimate is updated based upon the annual reports that were received for the 2011 reporting year.

As specified in 45 CFR §158.251, for the 2011 MLR reporting year only, an issuer whose MLR met or exceeded the applicable MLR standard was required to send a notice to each policyholder and each subscriber of group policyholders with information about its MLR. This notice was a one-time notice and is not required for the 2012 MLR reporting year or beyond.

Recordkeeping. The MLR regulations contain two recordkeeping requirements. Section 158.502 requires an issuer to maintain all documents and other evidence necessary to enable CMS to verify that the data submitted by the issuer is in compliance with 45 CFR Part 158, including all documents, records, and other evidence used to calculate the MLR and any rebates, and that any rebates owing in accordance with 45 CFR Part 158 are provided. Section 158.501 requires an issuer to preserve and maintain all such documents, records, and other evidence for the MLR reporting year as well as six prior years unless a longer period is required under §158.501. This information collection was also approved by OMB Control Number 0938-1164 and is not being revised at this time. The burden estimate has been updated based upon the annual reports received for the 2011 reporting year.

2. Purpose and Use of Information Collection

The data collection of annual reports provided by an issuer for each State's individual, small group, and large group markets will be used by CMS to ensure that consumers are receiving value for their premium dollar by calculating each issuer's MLR and any rebate payments due for the respective MLR reporting year, as well as verifying the provision of any rebates and the provisions of the rebate notices.

The standardized notices will be used to ensure that consumers are receiving information about the rebate they will be receiving, how their issuer is using health care premium dollars and about the value they are receiving for their premium dollar. The notices will help provide greater transparency to consumers. The recordkeeping requirements will be used by CMS to determine issuers' compliance with the MLR requirements, including compliance with how issuers' experience is to be reported, their MLR and any rebates owing are to be calculated, distribution of rebates and provisions of rebate notices.

3. Use of Improved Information Technology and Burden Reduction

Each issuer will submit its annual report electronically to the Secretary for each respective State and market in which it conducts business. Information will be collected electronically through our HIOS computer system. (OMB Control Number 0938-1086.) This will require registration of the issuer, providing issuer information for the purpose of the collection, and will be the same process as used for the 2011 reporting year. Issuers who have already registered with our MLR module within the HIOS system will not need to register again.

4. Efforts to Identify Duplication and Use of Similar Information

There are no similar information collections related to MLR.

5. Impact on Small Businesses or Other Small Entities

As stated in the Regulatory Impact Analysis of OCIIO-9998-IFC (75 FR 74864 (December 1, 2010)), CMS does not believe that the required submission of annual reports to the Secretary will have a significant impact on a substantial number of small entities. CMS estimates that of the 502 issuers who must report annually to the Secretary in compliance with OCIIO-9998-IFC, there are only approximately 22 small entities, or roughly four percent, who must comply with the reporting mandate. This estimate may overstate the actual number of small health insurance issuers that would be affected, since it does not include receipts from these companies' other lines of business.

6. Consequences of Collecting the Information Less Frequently

Section 2718 of the PHS Act requires reports to be submitted annually. CMS will use the information reported to assess whether each issuer is in fact providing policyholders with health care value in return for their premium dollars.

Regarding notices, section 2718 of the PHS Act requires issuers to provide rebates annually if they do not meet the applicable MLR standard. Since rebates are provided annually, notices of rebates are required to be provided to policyholders annually in order to inform policyholders about any rebates owing.

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

No special circumstances apply to these collections.

8. Comments in Response to the Federal Register Notice

CMS received 4 public comments on 25 specific issues regarding the notice of the revised Medical Loss Ratio (MLR) PRA package published in the Federal Register on December 4, 2012 (77 FR 71801). The comment period closed on February 4, 2013. Comments were received from America's Health Insurance Plans (AHIP), Blue Cross and Blue Shield Association (BCBSA), Cigna, and Prudential.

The PRA package contains the version of the MLR Annual Reporting Form for the 2012 MLR reporting year, which health insurance issuers must file with CMS by June 1, 2013, and the instructions for completing the form. It modifies the MLR Annual Reporting Form approved by OMB, on May 11, 2012, OCN 0938-1164 for the 2011 MLR reporting year.

The comments CMS received regarding the MLR Annual Reporting Form and Instructions are summarized and attached. Most of the comments addressed clarifying the instructions or correcting typographical errors, the removal of calculated cells and the issuer's ability to copy and paste data onto the form, and the inclusion of a credibility indicator for small issuers so that small issuers would not need to complete the full MLR reporting form. The attached document sets forth each comment and our response.

9. <u>Explanation of any Payment/Gift to Respondents</u>

Respondents will not receive any payments or gifts as a condition of complying with this information collection request.

10. <u>Assurance of Confidentiality Provided to Respondents</u>

As required by section 2718(a) of the PHS Act, CMS does intend to publish issuers' annual reports on its internet website. However, no individually identifiable personal health information will be collected and consequently, cannot, be disclosed.

11. <u>Justification for Sensitive Questions</u>

These collections do not contain sensitive questions.

12. <u>Estimates of Annualized Burden Hours</u> (Total Hours and Wages)

The burden estimates associated with the annual report, rebate notice, rebate disbursements and recordkeeping requirements are discussed below. We have updated the burden estimates based on the MLR experience for the 2011 reporting year. We estimate that each annual filing and rebate disbursement cycle will require on average slightly more than 214 person-days of effort per issuer (approximately 1713 burden hours divided by 8-hour work days). One-time set up costs for producing annual reports are not included in these burden estimates because they have already been incurred and do not apply to the 2012 MLR reporting year and subsequent years.

Annual MLR Report, Including MLR and Rebate Calculations and Information Regarding Prior Year Rebates

An issuer is required to submit an annual report to the Secretary for each State and market segment in which it issues health insurance coverage. As described in the regulatory impact analysis (RIA) of OCIIO-9998-IFC, the preparation and submission of reports is expected to require a mix of skills. We also estimate that issuers will use a mixture of professional staff, accounting staff, and clerical staff to prepare, review, and issue rebate notices and rebate checks or premium credits, and to perform recordkeeping activities and to upload the report to the HIOS system. The average hourly compensation, including fringe benefits and overhead expenses is $53.44 for ongoing annual reporting.

As set out in 45 CFR §158.260, the annual report to the Secretary is comprised of three parts: data concerning the amount the premium dollars the issuer spends each year on claims, quality improvement expenses, non-claims costs, Federal and State taxes, licensing and regulatory fees based upon the relevant MLR reporting year; the correlating MLR and rebate (if any) calculation; and data regarding disbursement of rebates based on the prior MLR reporting year.

On June 1, 2013, 502 issuers are expected to file a total of 3,085 annual reports with the Secretary[1]. Previous burden estimates related to these requirements have been updated based on 2011 MLR data submissions. It is estimated that, each issuer will, on average, spend approximately $20,925 annually (Table 1) and, because of operating in several States and markets, will submit on average 6 reports a year. Actual burden and cost is likely to be lower since the MLR reporting form has been simplified and issuers now have a choice of format for data submission. We also expect that the burden associated with annual reports will be lower in future years as issuers gain experience with the form and reporting requirements.

Table 1: Burden and Cost Estimates for Annual Report

Form	Type of Respondent	Number of Respondents	Average Number of Reports per Respondent	Frequency	Estimated Burden Hours per Respondent (Ongoing)	Wage per Hour (incl. fringe)	Burden Cost Per Respondent (Ongoing)	Total Estimated Burden Hours (Ongoing)
Annual Report, Rebate Calculation, and Rebate Disburseme nt Report	Private Company	502	6.15	1	391.55	$53.44	$20,925.22	196,559.63

Notice of Rebate and disbursement of rebate checks

The regulation also requires each issuer that does not meet or exceed the minimum MLR standard to provide rebates to its policyholders as well as notice of such rebates to policyholders and to subscribers of group policyholders.

It is estimated that approximately 56 issuers in the individual market will disburse rebates in some form to subscribers by August 1 of the year following the end of the MLR reporting year, whether by premium credit, check, or refund via credit or debit card. Assuming that the issuers will disburse 50% of the rebates in the form of an actual check, we project that each of these 56 issuers will issue approximately 27,513 checks on average. Each issuer is estimated to expend approximately $28,929 (Table 4) in labor costs and an additional $1,376 (27,513 checks x $0.05 processing cost per check) in processing costs, for a total ongoing cost of approximately $30,304 a year. The remaining rebates will be issued through premium credit or refunds via credit or debit card. Costs of paying rebates through one-time electronic reimbursement are expected to be negligible. It is estimated that 87 issuers in the group market will provide rebates to policyholders for disbursement to subscribers. We expect that the rebates to policyholders will be issued electronically and the related costs will be negligible.

[1] These numbers are based upon the actual MLR reports that issuers filed for the 2011 MLR reporting year. A report includes data for multiple markets (individual, small group, large group) for an issuer in a State. An issuer may combine multiple reports in one filing.

Table 2: Burden Estimates for Disbursement of Rebate Checks

Forms (if necessary)	Type of Respondent	Number of Respondents	Average Number per Respondent	Frequency	Estimated Burden Hours per Respondent (Ongoing)	Total Estimated Burden Hours (Ongoing)
Disbursement of Rebate Checks	Private Company	56	27,513	1	687.84	38,518.97

It is estimated that 120 issuers in the individual and group markets will owe rebates and each issuer will provide rebate notices to approximately 69,372 policyholders and subscribers on average. (Table 3) We estimate that approximately 31,429 notices will be sent per issuer electronically and approximately 37,943 notices will be sent per issuer by first class U.S. mail. We assume that the cost of sending notices electronically is negligible. The cost for sending notices via U.S. mail for each issuer is estimated to be roughly $19,434 ($30.67 per hour x 6333.64 burden hours) in labor costs and approximately $18,971 (37,943 notices x $0.50 mailing and supply costs per notice) in mailing costs, for a total annual cost of approximately $38,405 (Tables 3 and 4).

Table 3: Burden Estimate for Notice of Rebates

Forms (if necessary)	Type of Respondent	Number of Respondents	Average Number per Respondent	Frequency	Estimated Burden Hours per Respondent (Ongoing)	Total Estimated Burden Hours (Ongoing)
Notice of Rebate to Policyholders	Private Company	120	69,372	1	633.84	76,037

<u>Cost Estimate for All Respondents Providing Notice of Rebates and Rebate Payments to Policyholders</u> (Annualized)

Table 4: Cost Estimates for Disbursement of Rebate Checks and Notice of Rebates

Type of Respondent and Forms	Number of Respondents	Average Number of Notices or Checks per Respondent	Average Mailing and Supplies Cost Per Notice or Check	Estimated Burden Hours per Rebate Cycle	Wage per Hour (incl. fringe)	Total Estimated Burden Cost for Notices or Checks Per Respondent
Private Company for notice of rebates	120	69,372	$0.50	633.64	$30.67	$38,405.08
Private Company for Disbursement of checks	56	27,513	$0.05	687.84	$42.06	$30,304.24
Total						**$68,709.32**

As issuers gain experience with the MLR requirements, it is likely that fewer issuers will owe rebates to fewer enrollees in future years and therefore the burden and costs associated with the rebate notices and disbursement of checks will be lower as well.

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

Recordkeeping Requirements

Each issuer is also obligated to maintain all documents, records and other evidence that supports the data submitted by the issuer in its annual report(s) to the Secretary.

Each of the 502 issuers that is expected to submit an annual report to the Secretary must maintain the supporting documentation for seven years. We estimate that each issuer will spend approximately $18 a year (Table 5) in maintaining the supporting documents for the respective MLR reporting year.

Table 5: Burden and Cost Estimates for Retention of Records

Forms (if necessary)	Type of Respondent	Number of Respondents	Average Number per Respondent	Frequency	Estimated Burden Hours per Respondent (Ongoing)	Total Estimated Burden Hours (Ongoing)	Wage per Hour (including fringe)	Burden Cost for Annual Retention of Records Per Respondent
Retention of Records	Private Company	502	6	1	0.37	186.12	$49.12	$18.21

14. Annualized Cost to Federal Government

Table 6: Estimate of Cost to Federal Government

Type Federal Employee Support	Total Burden Hours per Reviewer	Total Reviewers	Hourly Wage Rate (GS 14 equivalent) – (includes fringe)	Total Federal Government Costs
Data Analysis	2 hr per data submission for each Annual filing (502 filers once per year – 1004 hrs)[2]	1	$72	$72,288
Total				**$72,288**

Salaries are based on a 14 Grade/Step 1 in the Washington DC area with a benefit allowance for a total annual salary of $150,000.

[2] A data submission includes filings for all States by a single issuer.

15. Explanation for Program Changes or Adjustments

Based upon HHS' experience in the MLR data collection and evaluation process, HHS is updating its annual burden hour estimates to reflect the actual numbers of submissions, rebates and rebate notices. In addition, the notice requirement for issuers that do not owe rebates applied only to the 2011 reporting year, and does not apply to 2012 and subsequent MLR reporting years.

We have simplified the method by which issuers can enter their data into the reporting form. For the 2012 MLR reporting year, all data cells will be unlocked so that issuers can copy and paste data into the reporting form instead of manually entering data cell by cell. To assist issuers in populating cells that were previously locked and pre-calculated, CMS will provide a reference tool with formula calculations, which issuers may use if they find it helpful. The new method will reduce the burden on issuers as well as the possibility of error in formula results.

The 2012 MLR Reporting Form and instructions also reflect changes for the 2012 reporting year and beyond that are set forth in the December 2011 Final Rule as to whether certain already reported expenditures such as ICD-10 conversion costs are taken into account in calculating an issuer's MLR. In addition, as a result of Tri-Agency guidance, we have revised the MLR Form Instructions to reflect that for the 2012 MLR reporting year, expatriate plans are considered compliant with MLR requirements (see Affordable Care Act Implementation FAQs – Set 13, which may be found at http://www.cciio.cms.gov/resources/factsheets/aca_implementation_faqs13.html). For the 2012 MLR reporting year, issuers with only expatriate business are not required to file an MLR Form. Issuers with health insurance coverage which is subject to MLR requirements who also have expatriate experience must report the same limited information regarding their expatriate experience as they do regarding other lines of business that are not subject to the MLR rebate requirements.

HHS has created and published a host of electronic training tools to assist issuers with the preparation and submission of MLR data forms and Rebate calculations.

16. Plans for Tabulation and Publication and Project Time Schedule

The annual report of MLR data for the 2012 reporting year is due to the Secretary by June 1, 2013.

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

Not applicable.