

# **SUPPORTING STATEMENT - PART A**

## **AGENT/BROKER DATA COLLECTION IN FEDERALLY FACILITATED HEALTH INSURANCE EXCHANGES– CMS-10464**

### **A. Background**

On March 23, 2010 and March 30, 2010, respectively, the President signed into law the Patient Protection and Affordable Care Act (P.L. 111-148), and the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152). Collectively, these two laws are referred to as the Affordable Care Act. The Affordable Care Act expands access to health insurance coverage through the establishment of Affordable Insurance Exchanges (Exchanges), improvements to Medicaid and the Children's Health Insurance Programs, and the assurance of coordination between Medicaid, CHIP, and Exchanges. The Exchanges, new competitive private health insurance markets available to qualified individuals through the individual Exchange and small business employers/employees through the Small Business Health Options Program (SHOP) Exchange, will give millions of Americans and small businesses access to affordable, quality insurance options. By providing a place for one-stop shopping, Exchanges will make purchasing health insurance easier and more transparent, and will put greater control and choice in the hands of individuals and small businesses. Each state may establish its own Exchange, and States that do not opt to establish their own Exchange will have a Federally-facilitated Exchange (FFE).

The Exchanges established by the Affordable Care Act will facilitate the enrollment of qualified individuals into Qualified Health Plans (QHPs). The Exchanges will begin accepting applications for coverage when open enrollment begins on October 1, 2013 for coverage that will begin on January 1, 2014. Section 1401 of the Affordable Care Act creates a new section 36B of the Internal Revenue Code (the Code), which provides for an advanced premium tax credit (APTC) to reduce the monthly insurance costs for eligible individuals who enroll in a QHP through an Exchange. In addition, section 1402 of the Affordable Care Act provides cost-sharing reductions (CSRs), including co-pays and deductibles, for eligible individuals enrolled in a QHP offered through an Exchange.

The Centers for Medicare & Medicaid Services (CMS) recognizes the longstanding role that agent/brokers have played in connecting individuals and small businesses with health insurance products. Section 1312(e) of the Affordable Care Act and 45 C.F.R. §155.220(a)(1) expand the role of agent/brokers by permitting them to enroll qualified individuals or small employers/employees in QHPs through the Exchanges, and assist individuals in applying for APTCs and CSRs. To participate as facilitators to enrollment, the final rule requires agent/brokers to register with the FFE, complete a training course covering eligibility and enrollment criteria for assisting in QHP enrollment, and sign an agreement that formalizes their understanding and commitment to adhere to the rules of the program. This requirement is specific to the FFE and does not automatically apply to State-based Exchanges.

### **B. Justification**

## 1. Need and Legal Basis

Both section 1312(e) of the Affordable Care Act and 45 C.F.R §155.220 permit states to allow agent/brokers to enroll qualified individuals, employers, and employees in QHPs, including through the Exchange; and assist individuals in applying for APTCs and CSRs. Agents/brokers will serve as additional access points to the Exchange for individuals or SHOP employers/employees requiring or desiring agent/broker assistance.

In order to interface with the FFE, agent/brokers must establish an account and obtain a user ID through the CMS Enterprise Portal. Additionally, agents/brokers must register for, and successfully complete, Exchange-specific training, which enforces their understanding of eligibility and enrollment requirements in Exchanges. Agents/brokers must also apply this understanding to the use or development of any non-Exchange Web site, such as an issuer's or web broker's Web site, used as a tool for enrollment.

At the conclusion of training, agent/brokers will attest to adhere to FFE standards and requirements. Web brokers will sign and submit a similar agreement.

### **Necessary Data for Agent/Broker FFE Registration and Training Access**

The data collection described below is necessary for agent/brokers to register with the CMS Enterprise Portal, complete training with the FFE and Federally-facilitated Small Business Health Options Program (FF-SHOP), and complete their agreements with the Exchanges.

- **Register for the CMS Enterprise Portal:** In order to register in the CMS Enterprise Portal, agents and brokers must provide basic contact and identification information such as name, phone number, and Social Security Number. It is expected that the registration process will take approximately 20 minutes to complete. The burden associated with this collection requirement is accounted for in CMS-10452-CMS Enterprise Identity Management (EIDM). The collection is currently open for public comment at 78 FR 24752.
- **Register for the training:** In order to register for the on-line training course and exam, agents and brokers must provide basic contact and identification information such as name, National Producer Number, and role (whether the agent/broker wishes to sell in the FFE, FF-SHOP, or both). It is expected to take approximately 20 minutes to complete this process. Appendix A includes screen shots for the on-line entry of these data elements. Appendix B includes a complete list of the data elements.
- **Take the training program and exam:** Agents and brokers wishing to participate in the FFE must complete an on-line training program and pass exams to demonstrate their understanding of the material. There are three training modules:
  - The Affordable Care Act and Marketplace Basics Course, required for all agents/brokers;

- The Individual Marketplace Course for agents/brokers wishing to enroll individuals; and;
  - The Small Business Health Options Program Marketplace Course for agents/brokers wishing to enroll small businesses and their employees.
  - Agents and brokers who wish to participate in both the FFE and FF-SHOP must take all three training modules.
  - These training modules do not qualify as a collection of information that requires PRA approval. We are discussing them solely to advise agents and brokers of what they can expect from the registration process. It is estimated that it will take less than four hours to complete the courses and pass the exams.
- **Complete the attestation and print the training certificate.** At the conclusion of the training program, agents and brokers must complete an attestation and print off a copy of their training certificate. Web brokers must print, sign, and submit their agreement directly to the FFE/FF-SHOP. They must also prominently display language that notifies the consumer that the Web-broker has entered into an Agreement with CMS, and has agreed to conform to CMS web site display and security standards adopted by the FFE. It is expected that it will take less than ten minutes for any of the agents, brokers, or web brokers to complete this process.
  - **30 day advance written notice to CMS for termination:** Agents and brokers may terminate their agreements with the FFE at any time without cause, and will comply with standards adopted by the FFE for providing advance written notice to CMS. It is expected that this will take less than five minutes for each termination.

## **2. Information Users**

CMS will collect personally identifiable information from agent/brokers to register them with the Enterprise Portal and permit them to assist individuals and employers in enrolling in the FFE. The training and exams will ensure agent/brokers possess the basic knowledge required to enroll individuals and SHOP employers/employees through the Exchanges.

## **3. Use of Information Technology**

Agent/brokers that wish to participate in the enrollment of individual or SHOP employer/employees through the FFE will use the CMS Enterprise Portal to enter identifying information and register with the FFE. Following registration, agent/brokers will be required to complete online training courses through a CMS Learning Management System (LMS). After establishing an account on the LMS, agent/brokers will complete training courses and exams online. All aspects of registration and training will be conducted through an electronic platform. The decision to make online, electronic submission of materials required is the result of: (a) the geographic distribution of the population providing information to a centralized source, and (b) the existing expectation that agent/brokers will need to have and use online, electronic means to assist consumers and employers. Upon completion of their application and training requirements,

agent/brokers will be required to attest their agreement to adhere to FFE standards and requirements.

#### **4. Duplication of Efforts**

This information collection does not duplicate any other effort and the information cannot be obtained from any other source.

#### **5. Small Businesses**

By their nature, many agent/brokers are small businesses. The streamlined data collection and training approach employed in this process was tailored to meet their needs and to minimize burden to this group. There are no unique impacts that would affect small businesses any more than larger ones.

#### **6. Less Frequent Collection**

Annual registration and training are required for agent/brokers to update their knowledge and maintain the ability to enroll individuals or SHOP employer/employees in QHPs through the FFE. CMS/CCIIO requires annual registration and training to ensure agent/brokers are operating under the most current CMS/CCIIO guidelines and with knowledge of the most up-to-date market information. From time to time, agent/brokers may be asked to make their records available for oversight and compliance purposes. This is the minimum collection necessary for agent/brokers to meet the registration requirements required by the Exchange final rule and regulations, 45. C.F.R. §155.220(d)-(e).

#### **7. Special Circumstances**

Not applicable.

#### **8. Federal Register/Outside Consultation**

CMS has collaborated with several independent contractors, the National Association of Insurance Commissioners (NAIC), and CMS' Office of Information Systems, to pursue the most efficient and technologically-streamlined means for registering and training agents/brokers. This includes collaborating with the NAIC, states, industry membership groups, and issuers to determine the categories of data necessary for enabling agent/brokers to register with the FFE, access training, and assist individuals in enrolling in QHPs. CMS will not request any data from agent/brokers that it already receives from existing sources. CMS will continue to maintain collaboration with these stakeholders during future years. We have taken into consideration all proposed suggestions from industry stakeholders and the public, and have made necessary changes to this information collection.

The 60-day Federal Register Notice was published on February 7, 2013 at 78 FR 9056. We received nine comments. Of those nine comments, three were related to the PRA package and six were out of scope. Specifically, one commenter requested a process that would allow web-

brokers to enroll people without reporting individual issuer appointments, and CMS made this revision to the registration process. We also received some questions about how the training process will work. We confirm that agents/brokers will only need to register for the FFE once and that CMS will host the training program, as opposed to individual issuers. As a result of the comments, we modified both the registration process and simplified how agents and brokers would participate in the Exchanges to make it align more closely with how issuers, agents, and web-brokers currently do business.

## **9. Payments/Gifts to Respondents**

There are no payments/gifts to respondents associated with this information collection request.

## **10. Confidentiality**

All information obtained by CMS for this data collection will be kept private pursuant to applicable laws/regulations, including the Freedom of Information Act (FOIA), 45 C.F.R §5.65.

## **11. Sensitive Questions**

There are no sensitive questions.

## **12. Burden Estimates (Hours & Wages)**

In order to participate in the Exchanges, agents and brokers will have to register with the Exchange and register to take an on-line training course. To calculate the burden associated with this, we estimated the cost per hour for current insurance brokers, applied that to the three-quarters of an hour that we estimate all registration activities should take, and multiplied that by the estimated population of agent/brokers expected to register for this program.

- Cost per hour: The Bureau of Labor and Statistics (May 2012) indicates that for its labor category, Insurance Sales Agent, the average individual wage was \$30.48 per hour. Trending this 2012 wage up by 3% for both 2013 and 2014 yields an expected hourly wage for agent/brokers of \$32.34.
- Hours per agent/broker:
  - The burden associated with this collection requirement is accounted for in CMS-10452-CMS Enterprise Identity Management (EIDM). The collection is currently open for public comment at 78 FR 24752.
  - Registration for the training program, printing out the training certificate, and either clicking the attestation or signing and submitting in the web broker agreement, is expected to take no more than a total of 30 minutes.
- Population of agents: We used data provided by the NAIC and other sources to estimate the number of agents/brokers who would be affected by this collection.

- The NAIC indicates that there are between 600,000 and 700,000 total licensed brokers selling health insurance at any point in time in the United States. We selected the midpoint, 650,000, as our starting point for calculating burden.
  - According to CCIIO estimates, 37% of these agents/brokers are licensed in states that will likely operate SBEs, which would fall outside of this data collection. That leaves an estimated 409,500 in states in which an FFE/FF-SHOP will be operating.
  - It is possible, although not highly likely, that every one of the eligible agents and brokers will choose to participate in the FFE and complete the registration and training process. For the purposes of this PRA, we estimated that 85% of this eligible population will decide to participate. That results in an estimated agent/broker population of 348,075, which we rounded up to 350,000 for calculation purposes.
  - In the 60-day PRA we indicated that we expected to register and train 250,000 agent/brokers. This lower number was based on the assumption that the 27% of agents who are “captive”, or employed by a single issuer, would receive their training from that issuer. Since we have revised the method of participation for all agents, and have assured issuers that CMS will provide the training, we have revised our estimate to include that additional 27%.
- For years two and three, we built in a 3% annual cost of living increase for agent/broker wages. The table below summarizes these calculations and estimates:

Year	Minutes/agent	Hourly wage	Cost/agent	Number of agents	Total hours	Total cost
1	30	\$ 32.34	\$ 16.17	350,000	175,000	\$ 5,659,500
2	30	\$ 33.31	\$ 16.66	350,000	175,000	\$ 5,829,250
3	30	\$ 34.31	\$ 17.16	350,000	175,000	\$ 6,004,250
			<b>Total for all years</b>		<b>525,000</b>	<b>\$ 17,493,000</b>

### **13. Capital Costs**

No capital costs are estimated for agents/brokers to interact with the CMS Enterprise Portal, register, participate in training, and confirm material comprehension. The purchase of applicable equipment or services is considered part of customary and usual business or private practices.

### **14. Cost to Federal Government**

Monitoring and maintaining training and registration results in two kinds of cost for the Federal government:

- 1) The first cost category is for hosting and maintaining the training of agents and brokers. It has been estimated that this will take 2,089 hours each year with a blended, fully loaded, contract staff cost/hour of \$136.89 for a total of \$285,963. This cost will recur for years two and three of the contract and will be increased by 3% each year for inflation.
  
- 2) The second cost category is for a CMS Contracting Officer's Representative (COR) to oversee the project. CMS expects to hire a full time GS-13 employee to fulfill this responsibility. The current salary of a 13 Grade/Step 1 employee in the Washington, D.C. area is \$89,033 in year one. The cost for the COR will continue in years two and three but as no cost inflator is currently known, none will be applied.

<b>Year</b>	<b>Category</b>	<b>Hours</b>	<b>Cost</b>	<b>Total Cost</b>
1	Agent/broker training and registration	2,089	\$136.89	\$285,963
	CMS Contract Officer			\$89,033
	<b>Total</b>			<b>\$374,996</b>
2	Agent/broker training and registration	2,089	\$141.00	\$294,542
	CMS Contract Officer			\$89,033
	<b>Total</b>			<b>\$383,582</b>
3	Agent/broker training and registration	2,089	\$145.23	\$303,385
	CMS Contract Officer			\$89,033
	<b>Total</b>			<b>\$392,418</b>
	<b>Total for all years</b>			<b>\$1,150,996</b>

## **15. Changes to Burden**

Comments on the 60 day PRA filing requested that CMS train all agent/brokers, including those working for only a single issuer (captive agents). For this reason the number of agents registering for training increased from 254,095 in the 60 day package to 350,000 in this filing. This resulted in a corresponding increase in the number of hours and financial burden for training registration.

## **16. Publication/Tabulation Dates**

Agent/broker FFE registration and completion of the required training will begin on or around August 1, 2013. Select data elements submitted to CMS could be made public if CMS deems this to be appropriate to facilitate individual or SHOP employer/employee access to a list of registered agent/brokers. A listing of agents/brokers who have completed training may be made available by CMS if CMS deems this to be appropriate, and could include the name and contact

information for the agent/broker. This could include their name, address, telephone numbers, and email address provided during the registration process. A similar list may also be made available to issuers if CMS deems this to be appropriate.

**17. Expiration Date**

CMS would like an exemption from displaying the expiration date, as these forms are expected to be used on a continuing basis.