

Supporting Statement – Part A
Minimum Essential Coverage
(CMS-10465)

A. Background

The Patient Protection and Affordable Care Act, Pub. L. 111-148, was enacted on March 23, 2010 and the Health Care and Education Reconciliation Act of 2010, Pub. L. 111-152, was enacted on March 30, 2010 (collectively known as the “Affordable Care Act”). The Affordable Care Act reorganizes, amends, and adds to the provisions of title XXVII of the Public Health Service Act (PHS Act) relating to group health plans and health insurance issuers in the group and individual markets.

Section 1501 of the Affordable Care Act adds section 5000A to the Internal Revenue Code (IRC), which requires that most individuals maintain minimum essential coverage. IRC section 5000A(f) designates certain types of coverage minimum essential coverage. In addition, IRC section 5000A(f)(1)(E) directs the Secretary of Health and Human Services, in coordination with the Secretary of Treasury, to recognize other health benefits coverage as minimum essential coverage for purposes of their enrollees satisfying the minimum coverage requirement. The final rule titled “Patient Protection and Affordable Care Act; Exchange Functions: Eligibility for Exemptions; Miscellaneous Minimum Essential Coverage Provisions” designates certain types of existing coverages as minimum essential coverage. Other coverages, not statutorily designated and not designated as minimum essential coverage in this regulation, may be recognized as minimum essential coverage if certain substantive and procedural requirements are met.

B. Justification

1. Need and Legal Basis

The final rule specifically designates certain types of coverage that have not been designated in the statute, as minimum essential coverage. In addition, the final rule outlines a process by which other types of coverage can seek to be recognized as minimum essential coverage. It requires coverage recognized to be minimum essential coverage to offer substantially the same consumer protections as those enumerated in the Title I of Affordable Care Act relating to non-grandfathered, individual coverage to ensure consumers are receiving adequate coverage.

The final rule requires sponsors of individual coverage that seek to have such coverage recognized as minimum essential coverage to adhere to certain procedures. They will have to submit to HHS electronically the following information: (1) name of the organization sponsoring the plan; (2) name and title of the individual who is authorized to make, and makes, this certification on behalf of the organization; (3) address of the individual named above; (4) phone number of the individual named above; (5) number of enrollees; (6) eligibility criteria; (7) cost sharing requirements, including deductible and out-of-pocket maximum; (8) essential health benefits covered; and (9) a certification that the plan substantially complies with the provisions of Title I of the Affordable Care Act as applicable to non-grandfathered individual health insurance coverage and any plan documentation or

other information that demonstrate that the coverage sponsored by the organization substantially complies with these provisions.

The final rule also requires that sponsors whose health coverage are recognized as minimum essential coverage will have to provide a notice to enrollees informing them that the plan has been designated minimum essential coverage for the purposes of the Internal Revenue Code.

The notice requirement may be satisfied by inserting a statement into existing plan documents. Plan documents are usually reviewed and updated annually before a new plan year begins. Sponsors may insert the statement in their plan documents at that time at minimal cost. Once the notice is included in plan documents in the first year, no additional cost will be incurred in future years. Therefore this notice is not subject to the Paperwork Reduction Act of 1995.

2. Information Users

CMS will need the information to determine whether the plan sponsored by the requesting sponsor may be recognized as minimum essential coverage. CMS will maintain a public list of the types of coverage that have submitted this information and have been determined by the Secretary to meet the eligibility requirements to be recognized as minimum essential coverage. Consumers will also need to know that the types of coverage they are enrolled in are recognized as minimum essential coverage.

3. Use of Information Technology

Requesting sponsors are expected to submit the information to CMS electronically.

4. Duplication of Efforts

This is the first time such disclosures have been required, so there is no duplication of efforts.

5. Small Businesses

Small businesses are not affected by this collection.

6. Less Frequent Collection

This information will be provided to CMS at the time of the initial request and if there are any changes to the coverages at a later date. If sponsors do not submit this information, CMS will not be able to determine whether these types of coverage may be recognized as minimum essential coverage. In addition, if consumers are not provided with a notice, they would not be aware that their types of coverage are recognized as minimum essential coverage.

7. Special Circumstances

There are no special circumstances.

8. Federal Register/Outside Consultation

The 60-day Federal Register notice was published as part of a notice of proposed rulemaking

on February 1, 2013 (78 FR 7348).

Some commenters suggested that organizations submitting such requests provide more information regarding their plans rather than simply certifying that their plans meet substantially all of the requirements in the Title I of Affordable Care Act. We have revised the certification to request plan documentation or other information that demonstrate that the coverage sponsored by the organization substantially complies with the provisions of Title I of the Affordable Care Act applicable to non-grandfathered individual health insurance coverage.

9. Payments/Gifts to Respondents

No payments or gifts are associated with these information collection requests (ICRs).

10. Confidentiality

CMS will protect privacy of the information provided to the extent provided by law.

11. Sensitive Questions

These ICRs involve no sensitive questions.

12. Burden Estimates (Hours & Wages)

Organizations that currently provide health coverage that are not designated as minimum essential coverage may submit a request to CMS that their coverage be recognized as minimum essential coverage. Sponsors will have to electronically submit to CMS information regarding their plans and certify that their plans meet substantially all of the requirements in the Title I of Affordable Care Act, as applicable to non-grandfathered, individual coverage. CMS sought comments on how many sponsors are likely to submit a request to CMS that their coverage be recognized as minimum essential coverage but did not receive any information. We assume, however, that at least 10 sponsors will submit such a request. Average labor costs (including fringe benefits) are calculated using data available from the Bureau of Labor Statistics.

The burden associated with this certification includes the time needed to collect and input the necessary plan information and to retain a copy for recordkeeping by clerical staff and for a manager and legal counsel to review it and for a senior executive to review and sign it. The certification and attachments would be submitted to CMS electronically at minimal cost.

We estimate that it would take a combined total of 5.25 hours (4 hours for clerical staff at an hourly cost of \$30.64, 0.5 hours for a manager at an hourly cost of \$55.22, 0.5 hours for legal counsel at an hourly cost of \$83.10 and 0.25 hours for a senior executive at an hourly cost of \$112.43) to prepare and submit the information and certification to CMS and to retain a copy for recordkeeping purposes. The total cost for one sponsor is estimated to be approximately \$220. The sponsor will need to submit this certification to CMS only once and will need to resubmit it only if there is any change in coverage. Therefore, the total burden for 10 sponsors will be 52.5 hours, with an equivalent cost of approximately \$2,200.

Table 12.1 Estimated Burden Hours for Minimum Essential Coverage Certification

Type of Form	Number of Respondents	Number of Reports	Total Estimated Burden Hours	Burden Cost Per Respondent
Certification	10	1	52.5	\$2,200

13. Capital Costs

Sponsors are not expected to incur capital costs to fulfill these requirements.

14. Cost to Federal Government

CMS staff is expected to review the information submitted by requesting sponsors. We anticipate that a reviewer will need 3 hours to review each submission.

Table 14.1 Estimated Cost to Federal Government

Type of Federal Employee Support	Total Burden Hours per Reviewer	Total Reviewers	Hourly Wage Rate (GS 14 equivalent) – (includes fringe)	Total Federal Government Costs
Review of state rating information	30 hours	1	\$72	\$ 2,160

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.

15. Changes to Burden

Not applicable.

16. Publication/Tabulation Dates

There are no publication or tabulation dates associated with these ICRs.

17. Expiration Date

There is no expiration date for this collection requirement.

18. Certification Statement

There are no exceptions to the certification.