

Supporting Statement Part A
Medical Loss Ratio (MLR) Report for Medicare Advantage (MA) Plans and
Prescription Drug Plans (PDP)
CMS-10476, OCN 0938-New

Supporting Regulations Contained in 42 CFR 422.2400, 422.2401, 422.2410, 422.2420, 422.2430, 422.2440, 422.2450, 422.2460, 422.2470, 422.2480, 423.2300, 423.2401, 423.2410, 423.2420, 423.2430, 423.2440, 423.2450, 423.2460, 423.2470, and 423.2480

Background

Under the Affordable Care Act (ACA), and implementing regulations at 42 CFR, Medicare Advantage (MA) organizations and Prescription Drug Plan (PDP) sponsors are required to submit annual medical loss ratio (MLR) reports (at the contract level) to the Secretary of HHS concerning the amount spent on claims, quality improvement expenses, non-claims costs, Federal and State taxes, licensing and regulatory fees, and revenue. Plan sponsors must provide a remittance to the Secretary if the amount spent in a reporting year on certain costs compared to its revenue (excluding Federal and States taxes and licensing and regulatory fees) is below a certain ratio, referred to as the medical loss ratio (MLR).

MA organizations and Part D sponsors are required to report their MLR to CMS, and are subject to financial and other penalties for a failure to meet a statutory requirement that they have an MLR of at least 85 percent. The Affordable Care Act requires several levels of sanctions for failure to meet the 85 percent minimum MLR requirement, including remittance of funds to CMS, a prohibition on enrolling new members, and ultimately contract termination.

Plan sponsors will use the MLR Reporting Tool to provide contract-level MLR information to CMS. The information provided in this MLR Report is the basis for computing the contract's MLR percentage and remittance amount, if any, for a contract year.

A. Justification

1. Circumstances Making the Collection of Information Necessary

The Patient Protection and Affordable Care Act (Pub. L. 111–148), was enacted on March 23, 2010; the Health Care and Education Reconciliation Act (Pub. L. 111–152) (“Reconciliation Act”), was enacted on March 30, 2010. These two statutes are collectively referred to as the Affordable Care Act. The Affordable Care Act includes significant reforms to both the private health insurance industry and the Medicare and Medicaid programs. Provisions in the Affordable Care Act concerning the Part C Medicare Advantage (MA) and Part D Prescription Drug programs largely focus on beneficiary protections, MA payment reforms, and simplification of MA and Prescription Drug program processes for both programs. Regulations implementing most Affordable Care Act provisions pertaining to the MA and Prescription Drug Program

provisions were published on April 5, 2011 (77 FR 22072) and a correction was published June 1, 2012 (77 FR 32407).

Section 1103 of Title I, Subpart B of the Reconciliation Act amends section 1857(e) of the Social Security Act (the Act) to add new medical loss ratio (MLR) requirements. An MLR is expressed as a percentage, generally representing the percentage of revenue used for patient care, rather than for such other items as administrative expenses or profit. Because section 1860D–12(b)(3) (D) of the Act incorporates by reference the requirements of section 1857(e), these new Affordable Care Act medical loss ratio requirements also apply to the Part D program.

Under these new requirements, MA organizations and Part D sponsors (collectively referred to here as “plan sponsors”) are required to report their MLR, and are subject to financial and other penalties for a failure to meet a new statutory requirement that they have an MLR of at least 85 percent. The Affordable Care Act requires several levels of sanctions for failure to meet the 85 percent minimum MLR requirement, including remittance of funds to CMS, a prohibition on enrolling new members, and ultimately contract termination.

In the May 23, 2013 Federal Register (78 FR 31284), CMS published a final rule regarding implementation of these new MLR requirements for the MA and Part D programs. MA organizations and Part D sponsors are required to submit annual reports (at the contract level) to the Secretary of HHS concerning the amount spent on claims, quality improvement expenses, non-claims costs, Federal and State taxes, licensing and regulatory fees, and revenue. MA organizations and Part D sponsors must provide a remittance to the Secretary if the amount spent in a reporting year on certain costs compared to its revenue (excluding Federal and States taxes and licensing and regulatory fees) is below a certain ratio, referred to as the medical loss ratio (MLR). Sanctions do not apply to non-credible contracts, as defined in the regulations.

More specific information can be found in the 42 CFR references listed above. Copies of these references are available at: <http://www.gpo.gov/fdsys/pkg/FR-2013-05-23/pdf/2013-12156.pdf>

The following information collections are included in this request:

Annual Report. Plan sponsors are required to submit an annual report to the Secretary in December of the year following the end of an MLR reporting year. The annual report must be submitted to the Secretary in December 2015 for the 2014 reporting year.

Note that costs around submitting *remittances* to CMS are expected to be negligible, because payment of remittances will use a standard payment adjustment procedure in CMS’ payment system, which is a routine systems interface for the industry.

Recordkeeping. The MLR regulations contain recordkeeping requirements that require plan sponsors to maintain evidence of the amounts reported to CMS, to enable CMS to verify that the data submitted is in compliance with MLR regulations, including all documents, records, and other evidence used to calculate the MLR. Documents, records, and other evidence must be preserved and maintained for 10 years from the date such calculations were reported to CMS with respect to a given MLR reporting year.

MLR record retention costs are assumed to be relatively low, since MA organizations and Part D sponsors already retain similar data for general MA and Prescription Drug audits and per the established requirements in § 422.504(f)(2) and § 423.505(f)(2).

2. Purpose and Use of Information Collection

The data collection of annual reports provided by plan sponsors for each contract will be used by CMS to ensure that beneficiaries are receiving value for their premium dollar by calculating each contract's MLR and any remittances due for the respective MLR reporting year.

The recordkeeping requirements will be used by CMS to determine plan sponsor' compliance with the MLR requirements, including compliance with how plan sponsors' experience is to be reported, and how their MLR and any remittances are calculated.

3. Use of Improved Information Technology and Burden Reduction

Similar to the commercial MLR form, the Medicare MLR Report is programmed in Microsoft Excel. This software is used by CMS for numerous activities and builds on the knowledge of the organizations' users regarding this common business software. Excel's design is a user-friendly format, and used commonly in business applications. These factors limit the time required by organization users to gain experience and familiarity with the MLR Report.

The hardcopy screen prints in Attachment B present an overview of the MLR Report, and may not fully capture the streamlining effect of the software on the data collection and calculations. The use of Excel reduces the burden on the organizations to calculate the MLR percentage and remittance by using standard formulas. The Excel format allows for plans to easily copy information into the MLR Report and to use many other automation techniques.

The submission process for the MLR Report is entirely automated (electronically) through CMS's Health Plan Management System (HPMS). No paper/hardcopy submissions are required.

HPMS is already used by plan sponsors to submit other annual Part C and Part D reporting requirements to CMS (contracting information, bid pricing tools, plan benefit packages, formularies, DIR data submission, attestations, etc.).

4. Efforts to Identify Duplication and Use of Similar Information

There are no similar information collections that capture the requirements of MLR reporting for Part C and Part D.

5. Impact on Small Businesses or Other Small Entities

As stated in the Regulatory Impact Analysis of CMS-4173-F (78 FR 31284, May 23, 2013), 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.

6. Consequences of Collecting the Information Less Frequently

CMS must collect this information annually, as required by the Affordable Care Act. MA organizations and Part D sponsors are required to report their MLR, and are subject to financial and other penalties for a failure to meet a new statutory requirement that they have an MLR of at least 85 percent. The Affordable Care Act requires several levels of sanctions for failure to meet the 85 percent minimum MLR requirement, including remittance of funds to CMS, a prohibition on enrolling new members, and ultimately contract termination.

The MLR Report is necessary to fulfill the statutory requirements of the ACA. If CMS did not collect these reports annually, it would not be possible to fulfill the statutory mandate to assess whether each plan sponsor is in fact providing beneficiaries with health care value in return for their premium dollars.

7. Special Circumstances

No special circumstances apply to these collections.

8. Federal Register Notice

The 60-day Federal Register notice for this data collection published on July 5, 2013 (78 FR 40482). Comments were received. A summary of the comments and our response are attached to this PRA package.

In the February 22, 2013 Federal Register (78 FR 12428), CMS published a proposed rule regarding implementation of these MLR requirements for the MA and Part D programs.

In the May 23, 2013 Federal Register (78 FR 31284), CMS published a final rule regarding implementation of these MLR requirements for the MA and Part D programs.

9. Explanation of any Payment/Gift to Respondents

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

10. Confidentiality

Similar to the commercial MLR, CMS reserves the right to publish plan sponsors' annual reports, to achieve greater market transparency and improved ability of beneficiaries to make informed insurance choices.

No individually identifiable personal health information will be collected and consequently, cannot, be disclosed.

11. Justification for Sensitive Questions

There are no sensitive questions included in this collection effort.

12. Burden Estimate and 13. Capital Costs

The burden estimates associated with the annual report and recordkeeping requirements are discussed below, and also appeared in the RIA for the Medicare MLR rule

Annual Report. CMS estimates that each MA organization and Part D sponsor will incur approximately \$16,000 in onetime administrative costs (per report), and approximately \$5,000 in annual ongoing administrative costs (per report) related to complying with the MLR reporting requirements.

The estimated total number of MLR reports that MA organizations and Part D sponsors will be required to submit to the Secretary depends on the number of contracts held. MA organizations and Part D sponsors will be submitting a separate MLR report for each contract. CMS' analysis is based on 553 MA contracts and 63 Part D stand-alone contracts, for a total of 616 reports. The 616 contracts are comprised of 605 contracts subject to the reporting and remittance requirement plus 11 non-credible contracts that are subject to reporting requirements.

CMS used the commercial MLR RIA as a basis for estimating the total hours of administrative work related to the Medicare MLR requirements. CMS estimated the average cost per hour to be \$94.88. This figure was derived by using the May 2011 mean hourly wage of \$60.41 for computer and information systems managers from the Department of Labor's Bureau of Labor Statistics. This rate was increased by 48 percent to account for fringe benefits and overhead (36 percent for fringe benefits and 12 percent for overhead). This figure was then converted to 2014 dollars using an average annual growth rate derived from the changes to the Consumer Price Index.

CMS anticipates that the level of effort relating to these activities will vary depending on the scope of an MA organization or Part D sponsor's operations. The complexity of each MA organization or Part D sponsor's estimated reporting burden is likely to be affected by a variety of factors, including the number of contracts it offers, enrollment size, the degree to which it currently captures relevant data, whether it is a subsidiary of a larger carrier, and whether it currently offers coverage in the commercial market (and is therefore subject to the commercial MLR requirements).

The table below shows CMS' estimates that MA organizations and Part D sponsors will incur one-time costs for the CY 2014 reporting year of approximately \$16,000 per contract, on average, and ongoing costs thereafter of approximately \$5,000 per contract, on average, relating to the MLR reporting requirements.

	(a)	(b)	(c) = (a) x (b)	(d)	(e) = (c) x (d)	(f) = (e) / (a)
	Number of contracts/ reports	Estimated Average Hours per report	Estimated Total Hours	Estimated average cost per hour	Estimated Total Cost	Estimated Average Cost per Report
One-time cost for the CY 2014 reporting	616	164	101,024	\$94.88	\$9,585,157. 12	\$15,560.32

	(a)	(b)	(c) = (a) x (b)	(d)	(e) = (c) x (d)	(f) = (e) / (a)
	Number of contracts/ reports	Estimated Average Hours per report	Estimated Total Hours	Estimated average cost per hour	Estimated Total Cost	Estimated Average Cost per Report
year						
Ongoing annual costs	616	47	28,952	\$94.88	\$2,746,965. 76	\$4,459.36

Recordkeeping Requirements. CMS estimates that each MA organization and Part D sponsor will incur approximately \$4 in annual administrative costs (per report) related to complying with the MLR recordkeeping requirements.

Each plan sponsor is 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 plan sponsors that is expected to submit an annual report to the Secretary must maintain the supporting documentation for ten years from the date such calculations were reported to CMS with respect to a given MLR reporting year.

MLR record retention costs are assumed to be relatively low, since MA organizations and Part D sponsors already retain similar data for general MA and Prescription Drug audits and per the established requirements in § 422.504(f)(2) and § 423.505(f)(2).

To arrive at an estimate for MA organizations and Part D sponsors, we adjusted downward the 3.5 minute-per-report estimate that appears in the RIA for the commercial MLR rule. CMS estimates that MA organizations and Part D sponsors will incur annual ongoing costs relating to the MLR recordkeeping requirements of approximately \$4 per report on average, in maintaining the supporting documents for the respective MLR reporting year.

	(a)	(b)	(c) = (a) x (b)	(d)	(e) = (c) x (d)	(f) = (e) / (a)
	Number of contracts/ reports	Estimated Average Hours per report	Estimated Total Hours	Estimated average cost per hour	Estimated Total Cost	Estimated Average Cost per Report
Ongoing annual costs	616	0.045	27.720	\$94.88	\$2,630.07	\$4.27

14. Annualized Cost to Federal Government

One-time cost for CY 2014 reporting year	\$800,000
Annual Maintenance and Enhancements	\$500,000
Annual Defining Requirements	
2 GS-15: 2 x \$74.51 x 20 hours	\$2,980.40
1 GS-14: 1 x \$65.53 x 80 hours	\$5,242.40

Subtotal	\$8,222.80
Total ANNUAL Cost to the Government	\$508,222.80

15. Explanation for Program Changes or Adjustments

This is a new data collection.

The Patient Protection and Affordable Care Act (Pub. L. 111–148), was enacted on March 23, 2010; the Health Care and Education Reconciliation Act (Pub. L. 111–152) (“Reconciliation Act”), was enacted on March 30, 2010. These two statutes are collectively referred to as the Affordable Care Act. Regulations implementing most Affordable Care Act provisions pertaining to the MA and Prescription Drug Program provisions were published on April 5, 2011 (77 FR 22072) and a correction was published June 1, 2012 (77 FR 32407).

Section 1103 of Title I, Subpart B of the Reconciliation Act amends section 1857(e) of the Social Security Act (the Act) to add new medical loss ratio (MLR) requirements.

16. Plans for Tabulation and Publication and Project Time Schedule

The annual report of MLR data for the 2014 reporting year is due to the Secretary in December 2015.

Similar to the commercial MLR, CMS reserves the right to publish plan sponsors’ annual reports, to achieve greater market transparency and improved ability of beneficiaries to make informed insurance choices.

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

CMS has no objections to displaying the expiration date.

18. Certification Statement

There are no exceptions to the certification statement identified in Item 19, “Certification for Paperwork Reduction Act Submissions, “ of OMB Form 83-I.

B. Collections of Information Employing Statistical Methods

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