

Supporting Statement Part A  
Basic Health Program Report for Health Insurance Exchange Premium  
CMS-10510, OCN 0938-1218

## **Background**

In accordance with the Basic Health Program (BHP) final rule published on March 12, 2014 (79 FR 14112), states can apply and be certified to operate a BHP effective January 1, 2015. The BHP provides an alternative coverage program for certain low income individuals who would otherwise be eligible to obtain coverage through the Exchange. The parameters of BHP program provide flexibility to states to better address potential disruptions in coverage and service delivery that low income people tend to face as their income fluctuates which can have a serious effect on their health status. This is a particularly important concern among people with chronic conditions and disabilities who are disproportionately low income and need continuity in their health care and other services. Among a state's key considerations in deciding whether to implement BHP is the amount of federal funding they would receive.

In accordance with section 1331 of the Affordable Care Act (ACA), BHP is federally funded by determining the amount of payments that the federal government would have made through the premium tax credit (PTC) and cost sharing reductions (CSR) for people enrolled in BHP had they instead been enrolled in an Exchange.

In order to calculate these amounts for each state, CMS needs the reference premiums for the second lowest cost silver plans (SLCSP) in each geographic area in a state, as SLCSPs are a basic unit in the calculation of PTC and CSRs under the Exchanges. Relatedly, the reference premiums for these SLCSPs are critical components in the BHP payment methodology in order to estimate what PTC and CSRs would have been paid. Similarly, CMS also needs to collect reference premiums for the lowest cost bronze plans to appropriately account for CSR calculations for American Indians and Alaskan Natives. Reference premiums are foundational inputs into the BHP payment methodology.

CMS has the necessary information to determine these reference premiums for states whose Exchanges are operated by the Federally Facilitated Exchange (FFE) or in Partnership with the FFE. Therefore this collection only pertains to the 17 states who are operating State Based Exchanges (SBEs).

### **A. Justification**

#### **1. Need and Legal Basis**

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The BHP final regulation published on March 12, 2014, under 42 CFR 600.610(a)(2), provides that a state may be required to submit data in accordance with the published proposed payment notice in order for the Secretary to determine the state's payment rates. As such, we intend only to require SBE states to provide these data if they want their rates published in a subsequent payment notice which may be published in fall 2014. In order to publish these rates in the fall 2014 notice, the latest possible date that CMS can receive reference premiums from SBE states is November 1, 2014.

We note that we intend to allow states to provide these data as late as four months before they intend to begin providing coverage under a BHP program, which would require CMS to develop the state's BHP payment rates and have them published under a separate (but related) notice for the same year. After the initial year of BHP operation, 42 CFR 600.610(a)(2) provides that the Secretary will determine and publish a final BHP payment methodology and BHP payment amounts annually in February. Accordingly, it is our intention to require that after year one of a state's BHP implementation, that state's reference premiums will be due every December, for the qualified health plans (QHPs) to be offered on the state's SBE beginning the following January. This will allow CMS to publish in an annual final BHP payment notice the new year's BHP payment rates, inclusive of every state operating a BHP. This will provide such states with information about the federal payments they will receive in the new year, which can inform their decision to continue to operate BHP and their annual contracting with BHP plans.

## 2. Information Users

CMS will use the reference premiums collected as inputs in the BHP federal payment calculations that represent the BHP payment methodology as finalized in the 2015 BHP payment notice, which was published on March 12, 2014. As specified in section 1331(d)(3) (iii) of the Affordable Care Act, the Chief Actuary of CMS, in consultation with the Office of Taxation Analysis of the Department of Treasury, will certify whether the methodology used to make determinations about the federal payments to be paid to a state to meets the requirements of clause (ii) under this same subpart. CMS intends to update the methodology

annually as needed and in accordance with the requirements of section 1331(d)(3) of the Affordable Care Act. CMS anticipates refinements to the methodology as experience is gained under the Exchanges and in the BHP programs. CMS also anticipates that every year, beginning in March 2015, a final BHP payment notice will be published providing the BHP payments rates by state. The rates will inform states' consideration of whether to implement BHP as they will be able to consider the federal funding they will receive. These rates will also be used to calculate the actual federal payments that will be made to states that implement BHP. The reference premiums collected and the rates that are generated will also support BHP program oversight and CMS understanding of the BHP program relative to other programs that include low income people such as Medicaid and the Exchanges.

### 3. Use of Information Technology

This information collection is relatively small and CMS expects to collect it in a standardized format in an Excel spreadsheet that would be submitted to a reference email box, [Basic\\_Health\\_Program@cms.hhs.gov](mailto:Basic_Health_Program@cms.hhs.gov). We expect these data to be used 100 percent of the time in an electronic format.

In compliance with the requirements of the Government Paperwork Elimination Act (GPEA), the following information is provided.

- This is a new collection so it is currently not available for completion electronically.
- This collection requires a signature from the respondent(s) on a separate PDF form that will also be submitted with the Excel spreadsheet to [Basic\\_Health\\_Program@cms.hhs.gov](mailto:Basic_Health_Program@cms.hhs.gov).
- Irrespective of whether CMS had the capability of accepting electronic signature(s), this new collection is being made available electronically as described.
- This new collection will be electronic beginning with the first collection on November 1, 2014. This collection is being made electronic which is cost beneficial to paper submission.

### 4. Duplication of Efforts

CMS has this information from states operating under the FFE or in partnership with the FFE. The record layouts that support the validation of tax credits to be paid under the Exchanges have been reviewed. Furthermore, discussions have ensued with business owners of these records to ensure that there is not sufficient federally available data to provide or determine the reference premiums for the SLCSPs and the lowest bronze plans offered under the SBEs. With one possible exception, these premiums cannot be found or determined with accuracy and certainty using SBE websites or other publically available information, which are appropriate and necessary conditions for making federal payments to states for their BHP programs.

The possible exception is the System for Electronic Rate and Form Filing (SERFF) owned and operated by the National Association of Insurance Commissioners, which contains rating information for some but not all SBE states. NAIC, after obtaining permission from the SBE, could possibly write the code necessary to generate a state's reference premiums and provide

them directly to CMS, but it is our requirement for a state official to verify the accuracy of the data submitted. This step would require the NAIC to provide the results to the state before sending it to CMS in any event. To summarize, not all SBE states use SERFF, the process for negotiating these arrangements between CMS, NAIC and SBEs would be more time consuming and less efficient than collecting this information from directly from the states, and we do not believe that a November 1, 2014 due date could be met.

That is to say, this information collection does not duplicate any other effort and the information cannot be obtained from another source.

5. Small Businesses

This collection of information does not impact small businesses or other small entities.

6. Less Frequent Collection

Section 1331(d)(3)(a)(i) of the Affordable Care Act requires an annual determination of the amount that the Secretary would have paid equal to 95 percent of the PTCs and CSRs for BHP enrollees had they been enrolled in the Exchanges. The premiums for qualified health plans offered under the Exchanges are expected to change annually. Therefore, to accurately calculate the BHP payment amounts for a given year the reference premiums associated with the second lowest cost silver plans and the lowest cost bronze plans must be collected each year from SBEs. That is to say, the BHP payment rates and actual payment amounts would be inaccurate if these data were not collected on annual basis.

7. Special Circumstances

There are no special circumstances requiring this information collection to do any of the following:

- Have respondents conduct this collection more often than quarterly;
- Have respondents submit more than the original electronic copy of the instrument and signature page;
- Require respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;
- Be connected with any statistical survey, including one that is not designed to produce valid and reliable results that can be generalized to the universe of study;
- Require the use of a statistical data classification that has not been reviewed and approved by OMB;
- Include a pledge of confidentiality that is not supported by authority established in statute or regulation that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
- Require respondents to submit proprietary trade secret, or other confidential information.

8. Federal Register/Outside Consultation

Prior to the publication of the December 23, 2013 (78 FR 77469), final notice, CMS met with interested states to discuss the proposed payment notice. Through these discussions, we asked specific questions about the timing, whether the data are readily available, and if there are concerns about burden or sensitivities to consider. The states that provided feedback stated the information is readily available and did not express any concerns regarding our inquiries. They did have questions about the definitions of the reference premiums we might apply to the information collection, that is, what are the age groups, what would happen if there is more than one reference premium in a service area, would we intend to differentiate between premiums for non-tobacco smokers and tobacco smokers. We answered the questions and they seemed satisfied.

CMS, led by the Office of the Actuary, has consulted extensively with the CMS Center for Consumer Information and Oversight, which is the office responsible for the PTC and CSR payment methods; a CMS contractor, the Urban Institute; and the Office of Taxation Analysis of the Department of Treasury. These consultations have been on the development of the BHP payment methodology, the data sources needed and the availability of federal and publically available data to support the BHP calculations. All parties were in agreement on the methods, the data needs and the lack of federal and public availability of the reference premiums for SBE states. In addition, CMS consulted with the Internal Revenue Service on the availability federal data sources, and it was also in agreement. Furthermore all of these parties agreed that SBEs would have these data readily available, that collection of this information represented a very low burden, and that states would want to provide it in order to understand what would be their federal payments.

9. Payments/Gifts to Respondents

No provision is being made for payment or gift to respondents, other than remuneration of contractors or grantees.

10. Confidentiality

This information collection does not include confidential information and no assurances are made to SBEs to keep these data confidential.

11. Sensitive Questions

There are no questions in this information collection of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that we commonly considered private.

12. Burden Estimates (Hours & Wages)

The total number of respondents is 17, which is the number of State Based Exchanges (SBEs). Each respondent provides annually their reference premiums for the second lowest

cost silver plans (SLCSP) and lowest cost bronze plans (LCBP). The activities necessary to provide this information collection include: programming for and populating the collection spreadsheet, validating the data pull, reviewing and attesting to the collection by a state official, and sending the collection to the CMS resource email box. As indicated above, this information is readily available in the SBEs as the information is needed to calculate the premium tax credits (PTCs) and the cost sharing reductions (CSRs) as CMS requires for an Exchange to be run by the state. Therefore, it is not expected that hourly and cost burdens would range widely across SBE states. To calculate the costs for each reporting activity, a GS level was identified commensurate with the level of GS that normally handles such an activity. The hourly wage associated with each GS level was selected from the Office of Personal Management’s Federal Employment Hourly Rate Table, General Schedule, for 2012. Each hourly wage was adjusted to provide a 35 percent overhead rate. As presented in Table #1 below, the total hourly and cost burdens for reporting per response are 3.75 hours and \$185.11. Because there is only an annual report, the per response and per respondent values are the same. The total annual hourly and cost burdens across all respondents is 63.75 hours and \$3146.90.

<b>Table #1 Reporting Activity</b>	# Hours per Response	GS level- Step : Hourly Wage x 35 % per Response	# Hours per Year per Respondent	Cost per Year per Respondent	# Hours per Year across All Respondents	Cost per Year across All Respondents
Program for / populate table	2.5	GS12-1 : \$38.99	2.5	\$38.99	42.5	\$662.80
Validate data pull	0.5	GS14-1 : \$54.78	0.5	\$54.78	8.5	\$931.31
Review / Attestation by state official	0.5	GS 15-1 : \$64.45	0.5	\$64.45	8.5	\$1095.63
Send collection	0.25	GS 9-1 : \$26.89	0.25	\$26.89	4.25	\$457.16
<b>Total Reporting</b>	3.75		3.75	\$185.11	63.75	\$3146.90

In addition to reporting, we assume a nominal amount of time for record keeping which would require developing BHP data folders and saving the spreadsheet to those folders according to the state’s procedures for handling information reportable to CMS that does not contain personal information. It is not expected that hourly and cost burdens would range widely across SBE states. As presented in Table #2 below, the total hourly and cost burdens for record keeping per response are 0.25 hours and \$26.89. Because there is only an annual report, the per response and per respondent values are the same. The total annual hourly and

cost burdens across all respondents is 4.25 hours and \$457.16.

<b>Table #2 Record Keeping Activity</b>	# Hours per Response	GS level- Step : Hourly Wage x 35 % per Response	# Hours per Year per Respondent	Cost per Year per Respondent	# Hours per Year across All Respondents	Cost per Year across All Respondents
Develop BHP data folder & save	0.25	GS9-1 : \$26.89	0.25	\$26.89	4.25	\$457.16

Combining the hour and cost burdens for reporting and record keeping provides the total burden on respondents for this information collection as presented in Table #3. The total annual hourly and cost burdens across all respondents is 68 hours and \$3604.06.

<b>Table #3</b>	# Hours per Response	GS level- Step : Hourly Wage x 35 % per Response	# Hours per Year per Respondent	Cost per Year per Respondent	# Hours per Year across All Respondents	Cost per Year across All Respondents
Reportin g from Table #1	3.75		3.75	\$185.11	63.75	\$3146.90
Recordk eeping from Table #2	0.25		0.25	\$26.89	4.25	\$457.16
<b>Total Burden</b>	4.0		4.0	\$212.00	68.00	\$3604.06

13. Capital Costs

There are no capital and start-up costs, nor operation, maintenance and purchase of services costs associated with this collection as these reference premiums are readily available to SBEs, as they are necessarily inputs for SBE states to calculate PTCs for people enrolled in their Exchanges who qualify for tax credits.

14. Cost to Federal Government

Section 1331 of the Affordable Care Act which describes the Basic Health Program (BHP) and how it will be funded by the federal government does not include a provision for the

federal government to cover a state’s administrative costs for BHP. However, the federal government is incurring annualized cost to develop the collection tool, provide technical assistance to SBE states on the collection tool and data submission, and to retrieve the collection and conduct a federal verification. To calculate the annualized cost, a GS level was identified commensurate with the level of GS that normally handles these activities. The hourly wage associated with each GS level was selected from the Office of Personal Management’s Federal Employment Hourly Rate Table, General Schedule, for 2012. Each hourly wage was adjusted to provide a 35 percent overhead rate. Because the collection tool is only developed once, and we anticipate receiving these data from SBE states once per year, each of these costs are only incurred once annually. As presented in Table #4 below, the total annualized cost to the federal government for this information collection is \$1305.09

<b>Table #4 Federal Activity</b>	# Hours	GS level-Step : Hourly Wage x 35 % per Response	Annualized Cost
Develop collection tool	16	GS15-1 : \$64.45	\$1031.18
Technical assistance to states	1	GS14-1 : \$54.78	\$54.78
Retrieval /verification	4	GS 14-1 : \$54.78	\$219.13
<b>Total Annualized Cost</b>	21		\$1305.09

15. Changes to Burden

While there are no burden changes/adjustments, two new columns were added on the "Silver Plan Data Table A" and "Bronze Plan Data Table A" spreadsheets to collect the premium information for a 35 year old non-smoker and 35 year old smoker.

16. Publication/Tabulation Dates

The final BHP payment notice (December 23, 2013; 78 FR 77469) describes input by input the factors that will go into the BHP payment rate and payment amount calculations and the analytic techniques to derive several of these factors.

In summary, we would use the subset of reference premiums provided by the SBEs and from the federally available FFE rating data (e.g., for several ages, not all ages; for non-tobacco and tobacco use) for every county, and develop ‘adjusted reference premiums’ by applying each state’s age curve and coverage rules as well as a premium trend factor and a population health factor. These adjusted reference premiums would be inputs among other factors to simulate the values of the PTCs and CSRs that BHP enrollees would have received if they had enrolled in QHPs offered through an Exchange. In general, the values for factors in the payment methodology specified in statute or other regulations as available, and we developed values for other factors not otherwise specified in statute, or previously calculated in other



regulations, such as the population health status and the income reconciliation factor to simulate the values of the PTCs and CSRs.

Section 1331(d)(3)(A)(ii) of the Affordable Care Act specifies that the payment determination “shall take into account all relevant factors necessary to determine the value of the premium tax credits and cost-sharing reductions that would have been provided to eligible individuals ... including the age and income of the enrollee, whether the enrollment is for self-only or family coverage, geographic differences in average spending for health care across rating areas, the health status of the enrollee for purposes of determining risk adjustment payments and reinsurance payments that would have been made if the enrollee had enrolled in a qualified health plan through an Exchange, and whether any reconciliation of the credit or cost-sharing reductions would have occurred if the enrollee had been so enrolled.” The final payment methodology takes each of these factors into account.

The total federal BHP payment amount would be based on multiple “rate cells” in each state. Each “rate cell” would represent a unique combination of age range, geographic area, coverage category (for example, self-only or two-adult coverage through BHP), household size, and income range as a percentage of FPL. Thus, there would be distinct rate cells for individuals in each coverage category within a particular age range who reside in a specific geographic rating area and are in households of the same size and income range. These BHP payment rates would be published on a CMS public website; we are considering posting rates under \\CO-ADSHARE\SHARE\SHARE\OA\MMCEG\BHP\StateData.

A state implementing BHP must provide us an estimate of the number of BHP enrollees it projects will enroll in the upcoming BHP program year, by applicable rate cell, prior to the first quarter of program operations. Upon our approval of such estimates, they would be used to calculate the prospective payment for the first and subsequent quarters of program operation until the state has provided us actual enrollment data. This data would be required to calculate the final BHP payment amount, and make any necessary reconciliation adjustments to the prior quarters’ prospective payment amounts due to differences between projected and actual enrollment. Subsequent quarterly deposits to the state’s trust fund would be based on the most recent actual BHP enrollment data submitted to us by the state. Procedures will ensure that federal payments to a state reflect actual BHP enrollment during a year, within each applicable category, and prospectively determined federal payment rates for each category of BHP enrollment, with such categories defined in terms of age range, geographic area, coverage status, household size, and income range, as explained above. CMS intends for the estimated and actual enrollment data collection to be included in a separate information collection, and these data would be first due in the Fall 2014 and provided on a quarterly basis thereafter.

Below is the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

November 2014

- Data from premium collection tool must be submitted to CMS to calculate federal BHP

- payment for 2015.
- Open enrollment begins for BHP programs with an effective date of January 1, 2015.
  - Target date for first BHP enrollment estimates due from all BHP states with an effective date of January 1, 2015.

December 2014

- Target date for when actual first quarter BHP payment amounts are provided to BHP states with an effective date of January 1, 2015.
- Federal money transferred to a BHP state's trust fund account

January 1, 2015

- Effective date of BHP

17. Expiration Date

CMS would like an exemption from displaying the expiration date as these forms are used on a continuing basis. To include an expiration date would result in having to discard a potentially large number of forms.

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.