

**SUPPORTING STATEMENT FOR THE INFORMATION
COLLECTION REQUIREMENTS CONTAINED IN THE
AGENT/BROKER DATA COLLECTION IN FEDERALLY-
FACILITATED HEALTH INSURANCE EXCHANGES,
(CMS-10464/OMB Control Number 0938-1204)**

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, henceforth referred to as “Marketplaces,” improvements to Medicaid and the Children’s Health Insurance Programs, and the assurance of coordination between Medicaid, CHIP, and Marketplaces. The Marketplaces, new competitive private health insurance markets available to qualified individuals through the individual Marketplace and small business employers/employees through the Small Business Health Options Program (SHOP) Marketplace, will give millions of Americans and small businesses access to affordable, quality insurance options. By providing a place for one-stop shopping, Marketplaces 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 Marketplace, and States that do not opt to establish their own Marketplace will have a Federally-facilitated Marketplace (FFM).

The Marketplaces established by the Affordable Care Act will facilitate the enrollment of qualified individuals into Qualified Health Plans (QHPs). The Marketplaces began accepting applications for coverage when open enrollment first occurred on October 1, 2013 for coverage that began on January 1, 2014. Section 1401 of the Affordable Care Act creates a new section 36B of the Internal Revenue Code, which provides an advanced premium tax credit (APTC) to reduce the monthly insurance costs for eligible individuals who enroll in a QHP through a Marketplace. 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 a Marketplace.

The Centers for Medicare & Medicaid Services (CMS) recognizes the longstanding role that agents/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) expands the role of agents/brokers by permitting them to enroll qualified individuals or small employers/employees in QHPs through the Marketplaces, and assist individuals in applying for APTCs and CSRs. To participate as facilitators to enrollment, agents/brokers must now register

with the FFM, 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 FFM and does not automatically apply to State-based Marketplaces. Revised requirements pertaining to agents/brokers completing FFM registration are discussed in the final rule for the *Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2016* (CMS-9944-F). These updated requirements direct agents/brokers to submit additional fields related to basic contact information and list the State or States in which they are licensed. CMS wishes to incorporate these changes by revising the burden estimates and reducing the total number of respondents in the currently approved information collection request (ICR) (OMB control number 0938-1240).

CMS previously published this PRA package for a 60-day comment period.

B. Justification

1. Purpose of Information Collection

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

In order to interface with the FFM, agents/brokers must obtain an FFM user ID. Additionally, agents/brokers must register for, and successfully complete, Marketplace-specific training. The Marketplace-specific training ensures agents/brokers understanding of eligibility and enrollment requirements in Marketplaces. Agents/brokers must also apply this knowledge to use or develop any non-Marketplace Web sites, such as an issuer's or web broker's Web site, used as a tool for enrollment.

2. Information Users

CMS collects personally identifiable information from agents/brokers to register them with the FFM and permit them to assist individuals and employers in enrolling in the FFM. CMS uses this collection of information to ensure agents/brokers possess the basic knowledge required to enroll individuals and SHOP employers/employees through the Marketplaces.

3. Use of Information Technology and Burden Reduction

This information collection is conducted online and is 100% electronic. Agents/brokers will use CMS or third-party systems to enter identifying information and register with the FFM. As a component of registration, agents/brokers are required to complete online training courses

through a CMS or third-party Learning Management System (LMS). Upon completion of their training requirements, agents/brokers will be required to attest to their agreement to adhere to FFM standards and requirements through a CMS or third-party LMS.

This revision to the currently approved collection clearance represents a significant reduction in the overall burden. CMS has updated the wage rates used to calculate the burden cost to reflect the most current information available from the Bureau of Labor Statistics. Based on participation rates not available when the current collection request was developed in 2013, CMS has reduced the total number of respondents. As a significant number of respondents will now be completing registration and training for the second or third time, CMS has also reduced the time required for each response.

4. Duplication of Efforts

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

5. Impact on Small Businesses or Other Small Entities

By their nature, many agents/brokers are small businesses. The data collection and training approach employed in this process was tailored to meet their needs and to minimize burden to this group.

6. Less Frequent Collection

Annual registration and training are required for agents/brokers to update their knowledge and maintain the ability to enroll individuals or SHOP employer/employees in QHPs through the FFM. CMS requires annual registration and training to ensure agents/brokers are operating under the most current CMS guidelines and with knowledge of the most up-to-date market information. This is the minimum collection necessary for agents/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. Outside Consultation

As required by the Paperwork Reduction Act of 1995 (44 U.S.C.2506 (c)(2)(A)), CMS published notices in the Federal Register requesting a 60-day public comment process on the proposed modification of the information collection requirements in the final rule for the Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2016 (CMS-9944-P).

9. Payments/Gifts to Respondents

Not applicable. There are no payments or gifts to respondents.

10. Assurance of Confidentiality Provided to Respondents

Some information collected during the registration process, including contact information for the agents/brokers such as names, telephone numbers, and e-mail addresses, is published on Healthcare.gov to facilitate consumer contact with the agents/brokers. This use of information is authorized by 45 C.F.R. §155.220(b), and has been reviewed by the CMS Office of General Counsel. All other 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

Not applicable. No sensitive questions are asked in the PRA package.

12. Burden Estimates (Hours & Wages)

The burden associated with this data collection can be attributed to agents/brokers. In order to participate in the Marketplaces, insurance agents and brokers who guide consumers and small businesses through enrollment/re-enrollment in QHPs offered on the FFM will have to register annually with the FFM, which includes taking online training. FFM registration and training includes the collection of basic contact information such as business name, address, phone number, and email address. In addition, agents/brokers will be required to provide their National Producer Number and the state or states in which they are licensed. At the conclusion of training, agents/brokers will attest to their adherence to FFM standards and requirements. Web brokers will sign and submit a similar agreement.

Burden for Agents/Brokers: FFM Registration/Training

The initial OMB clearance, OMB Control No. 0938-1204, specified the number of respondents as 350,000. Since this program is in its second year of operation, CMS is revising the estimates based upon participation data collected. During the first year of operation, 53,271 agents/brokers participated, and based on participation rates in year two, CMS projects 77,600 will have registered by the time the second year concludes in June 2015. This increase equates to a growth rate of 46%. Extrapolating this rate over three years results in an estimate of 517,575 respondents with an average of 172,525 per year.

We estimate labor rates on a mean hourly wage and increased these rates to include 35% of base compensation for fringe and other benefits from the May 2013 National Occupational

Employment and Wage Estimates United States¹. The labor category most appropriate to the respondent population is 41-3020, Insurance Sales Agents. Using this as a basis of estimate, CMS used a 3% wage inflation factor to set labor rates for each of the three years of this ICR.

On average, we estimate that it will take each insurance sales agent (at \$35.30 an hour) approximately 0.42 hours annually to complete the registration data collection. Therefore, for the 172,525 contributing entities, we estimate an aggregate burden of \$2,557,855.65 and 72,460 hours as a result of this requirement.

The data elements necessary for agents/brokers to complete FFM registration and training include basic contact information such as business name, address, phone number, and email address. In addition, agents/brokers will be required to provide their National Producer Number and the state or states in which they are licensed. At the conclusion of training, agents/brokers will attest to their adherence to FFM standards and requirements. Web brokers will sign and submit a similar agreement.

Table 1. Burden for Agents/Brokers: FFM Registration/Training

Labor Category	Number of Employees	Hourly Labor Costs (Hourly rate + 35% fringe benefits)	Burden Hours	Total Burden Costs (Per Respondent)	Total Burden Costs (All Respondents)
Insurance Sales Agent	1	\$35.30	0.42	\$14.83	
Total-Annual					\$2,557,855.65
Total - Three Years					\$7,673,566.95

CMS estimates that it will take approximately 26 minutes or less (0.42 hours) per agent to complete the registration data collection and the total annualized burden for 172,525 registrants is 72,461 hours and \$2,557,855.65.

13. Capital Costs

There is no capital cost associated with this collection effort.

¹ The source for the base hourly rates is the May 2013 National Occupational Employment and Wage Estimates United States, <http://www.bls.gov/oes/special.requests/oesm13nat.zip>.

14. Cost to Federal Government

We estimate that the operations and maintenance costs for the data collection will be \$387,284 on an annual basis. Monitoring and maintaining training and registration results in two kinds of cost for the Federal government. The first cost category is for hosting and maintaining the training of agents and brokers. The second cost category is for a CMS Contracting Officer's Representative (COR) to oversee the project.

15. Changes to Burden

We have modified the burden estimates that were approved in the initial package (OMB Control No. 0938-1204) on July 18, 2013. The revised figures reflect projections based on actual experience since receiving the initial approval. In terms of the number of respondents, the burden hours per response in the existing clearance were based on a theoretical maximum of the requirement. As a significant percentage of the respondents will now be completing their registration for the second or third time, CMS has reduced hours required per response from 0.5 hours per response to 0.42 hours per response. We did not change burden estimates from the estimates noted for the 60-day comment period.

16. Publication/Tabulation Dates

Agent/broker FFM registration and completion of the required training occurs annually. The information collection from agents/brokers is anticipated under this request to occur throughout the year as agents/brokers complete training. Select data elements submitted to CMS will be made public through Healthcare.gov on a recurring basis to ensure the most up-to-date information is available to Marketplace consumers. In addition, National Producer Numbers provided during the registration process are made available to issuers and to states to allow for verification of registration completion.

17. Expiration Date

CMS has no objections to displaying the expiration date.