

Supporting Statement – Part A

Patient Protection and Affordable Care Act; Consumer Assistance Tools and Programs of an Exchange and Certified Application Counselors; Exchange and Insurance Market Standards for 2015 - (CMS-10494/OMB Control Number: 0938-1205)

A. Background

On March 23, 2010, the President signed into law the Patient Protection and Affordable Care Act. On March 30, 2010, the Health Care and Education Reconciliation Act of 2010 was also signed into law. The two laws, collectively, are referred to as the Affordable Care Act.

The Affordable Care Act creates Health Insurance Exchanges (Exchanges), new competitive marketplaces where consumers and small businesses can purchase private health insurance. Consumers who access health insurance coverage through Exchanges will be able to receive skilled assistance from certified application counselors (CACs) who will provide information about applying for coverage in a qualified health plan (QHP) and insurance affordability programs through an Exchange, and will help to facilitate enrollment in QHPs and insurance affordability programs. A robust range of enrollment assistance programs will be critical to helping consumers enroll, particularly during the open enrollment periods (OEP); the initial OEP began October 1, 2013 and subsequent OEPs began November 15, 2014 and November 1, 2015. The certified application counselor program supplements other consumer assistance programs established under the Affordable Care Act, such as Navigators and non-Navigator Assistance Programs. As further discussed and clarified in the Final Rule, “Patient Protection and Affordable Care Act; Exchange Functions: Standards for Navigators and Non-Navigator Assistance Personnel; Consumer Assistance Tools and Programs of an Exchange and Certified Application Counselors,” (78 FR 42824, July 17, 2013), codified at 45 CFR 155.225, certified application counselors will play a more limited role relative to other assistance programs, as they will focus on providing skilled application assistance.

This information collection includes the following information collections: (1) certified application counselor (CAC) organization application; (2) follow-up questions to certain organizations that submit a CAC organization application; (3) information collections associated with entering into the agreement between CMS and the designated CAC organization, including collection requirements in the agreement; (4) agreements executed between CMS and a designated CAC organization; (5) initial training registration for CAC applicants, (6) disclosure requirements for CACs, (7) recordkeeping requirements for CACs and CAC organizations, (8) third-party disclosure requirements for CACs, (9) notice requirements for the Exchanges, (10) Exchange or CAC organization-created recertification requests; (11) recertification notices issued by an Exchange or CAC organization; (12) training certificate disclosures; (13) recordkeeping requirements associated with (1)-(3); (14) making updates and corrections to CAC organization information submitted to CMS and (15) collection of information through an optional

questionnaire included in the certification and recertification training to evaluate the quality of the training. CMS has obtained approval for these collections under OMB control number 0938-1205.

HHS is requesting approval by the Office of Management and Budget (OMB) for the revision of this supporting statement to include recordkeeping requirements associated with the requirement that CAC organizations track the performance of their CACs as well as the new information collection associated with the information and data reporting requirements for CAC organizations set forth in the HHS Notice of Benefit and Payment Parameters for 2017, published in February 2016. This rule adds a new §155.225(b)(1)(iii) requiring CAC organizations to submit data and information to Exchanges regarding the performance of their CACs and the consumer assistance they provide, upon request, in a form and manner specified by the Exchange.

B. Justification

1. Need and Legal Basis

Section 1413 of the Affordable Care Act directs the Secretary of HHS to establish, subject to minimum requirements, a streamlined enrollment system for qualified health plans offered through the Exchange and insurance affordability programs. In addition, section 1321(a)(1) of the Affordable Care Act directs and authorizes the Secretary to issue regulations setting standards for meeting the requirements under title I of the Affordable Care Act, with respect to, among other things, the establishment and operation of Exchanges. Pursuant to this authority, regulations establishing the certified application counselor program were finalized at 45 CFR 155.225. Specifically, 45 CFR 155.225(a) requires an Exchange to establish a certified application counselor program that complies with the requirements of the rule. Section 155.225(b)(1) allows each Exchange to designate certain organizations, including organizations designated by state Medicaid or CHIP agencies, which will certify their staff and volunteers to act as certified application counselors. In accordance with 45 CFR 155.225(b)(2), Exchanges may choose to certify directly individuals who seek to act as certified application counselors, designate certain organizations which will certify staff or volunteers to perform application services, or do both.

The duties of certified application counselors and standards for certification, such as training and disclosure of potential conflicts of interest, withdrawal and applicant/enrollee authorization requirements are set forth under 45 CFR 155.225(c) through (g).

The ICR was previously approved so that HHS could collect required information in order to implement duties and standards for certified application counselors and designated certified application counselor organizations under 45 CFR 155.225(c) through (g). We are revising this information collection to account for the burdens for CAC organizations associated with tracking CAC performance data and the proposed requirements for certified application counselor organizations to report CAC performance data and information to Exchanges. These proposed reporting requirements were set forth in the HHS Notice of Benefit and Payment Parameters for

2017, published on December 2, 2015. The reporting requirements were finalized in the final rule, published February 2016.

2. Information Users

Exchanges will use the information collected to certify individual CACs or designate organizations that may certify CACs and to maintain CMS records related to those certifications and designations.

Exchanges will also use the information collected to inform the public about the availability of application services from designated organizations.

Designated organizations will use the information collected to manage their internal processes to certify individual CACs.

Under 45 CFR 155.225(d)(1) and (7), certified application counselors in all Exchanges are required to be initially certified and then recertified on at least an annual basis and successfully complete Exchange-required recertification training, which will include an optional questionnaire to evaluate the quality of the training.

Under 45 CFR 155.225(b)(1)(ii), certified application counselor designated organizations are required to maintain a registration process and methodology to track the performance of certified application counselors. Certified application counselor organizations will use the information and data collected under the proposed data and information reporting requirements in conjunction with tracking the performance of the staff and volunteers that have been certified as certified application counselors by the organizations.

Under new provisions at §155.225(b)(1)(iii), CAC organizations are required to submit data and information to Exchanges regarding the performance of their CACs and the consumer assistance they provide, upon request, in a form and manner specified by the Exchange. Each Exchange would use the information and data as an aid in its oversight of certified application counselor programs, and to help improve the Exchange's understanding of the scope of consumer assistance being provided in the Exchange service area by certified application counselor programs. Each Exchange would also use the information and data to help focus its outreach and education efforts, target its recruitment of certified application counselor organizations, and identify the need for increased technical assistance and support for certified application counselor organizations.

3. Use of Information Technology

We expect organizations seeking designation would submit an application, which we expect will be available online in addition to a paper process. We expect that the Exchange will maintain the

model application and agreement and make training materials available through electronic means.¹ We also expect that the Exchange will use a public facing website to display information collected from designated organizations when they apply for designation, and that updates and corrections to that information can be submitted electronically by the designated organization to ensure that the information available to the public is complete, up-to-date and accurate.² In addition, we expect that an Exchange will maintain a record of potential occurrences of noncompliance as a basis for withdrawal by electronic means. The HHS-developed process will include training of certified application counselors through an online portal maintained by CMS; the optional questionnaire to evaluate the quality of the training will also be accessed through this portal.³

Under §155.225(b)(1)(iii), certified application counselor organizations will submit information and data using the format and reporting standards prescribed by an Exchange. In States with FFEs, CMS will begin collecting information and data from certified application counselor designated organizations on a quarterly basis beginning with the third quarter of calendar year 2017. The information and data that the FFEs require from these organizations include, at a minimum, data regarding the number of individuals who have been certified by the organization; the total number of consumers who received application and enrollment assistance from the organization; and of that number, the number of consumers who received assistance applying for and selecting a Qualified Health Plan (QHP), enrolling in a QHP, or applying for Medicaid or the Children’s Health Insurance Plan (CHIP). The quarterly reports submitted to the FFEs will provide information and data from the preceding quarter, and will be submitted electronically, through HIOS or another electronic submission vehicle.

Government Paperwork Elimination Act (GPEA)

Is this collection currently available for completion electronically?

- No, this will be a new electronic data collection.

Does this collection require a signature from the respondent(s)?

- CAC organizations, and individuals in certain State Exchanges, will submit applications using the format prescribed by the Exchange. It is expected that a physical signature or e-signature will be required on the agreement that is entered into by CMS and each designated organization.

1 See Appendix A, “Organization Application” for the application HHS uses to solicit applications from interested organizations in FFEs.

2 See Appendix B, “CAC Agreement,” for the requirements to provide updated contact and location information; see Appendix C, “FLH Updates,” for screen shots of an electronic option for updating contact information.

3 See Appendix D, “Registration Screen Shots,” for screen shots of the registration portal; see Appendix E for a sample training completion certificate; see Appendix F “Training Quality Questionnaire,” for the optional training quality questionnaire.

- Under the requirements at §155.225(b)(1)(iii), CAC organizations will submit information and data in a format prescribed by the Exchange. Therefore, each Exchange will determine whether a physical signature or e-signature will be required when information and data is reported to the Exchange.

If CMS had the capability of accepting electronic signature(s), could this collection be made available electronically?

- Yes, to the extent that the collection will be made available electronically once systems are developed, we expect that an e-signature would be required on the application and agreement.
- If CMS determines that a signature is required when information and data is reported to the FFE by a certified application counselor designated organization, we expect that this collection could be made electronically once an electronic submission vehicle has been established for this collection that is capable of accepting electronic signatures.

If this collection isn't currently electronic but will be made electronic in the future, please give a date (month & year) as to when this will be available electronically and explain why it can't be done sooner.

- Electronic collection of an e-signature on the agreement that is entered into by CMS and the designated organizations is not currently required. However, CMS is developing an electronic system for this collection and anticipates that it will have the capacity for the collection of an electronic signature on the agreement sometime in Q3 or Q4 of 2015.
- Exchanges may establish the proposed information and data reporting standards for certified application counselor organizations as they determine appropriate, based on their own specific needs and objectives. In States with FFEs, CMS will begin collecting information and data from certified application counselor designated organizations on a quarterly basis beginning with the third quarter of calendar year 2017. CMS also anticipates that the quarterly reports submitted to the FFEs will be submitted electronically, through HIOS or another electronic submission vehicle.

If this collection cannot be made electronic, or if it isn't cost beneficial to make it electronic, please explain.

- Not applicable. We expect that the collection will be made electronic in the future.

4. Duplication of Efforts

This information collection does not duplicate any other effort and the information cannot be obtained from any other source. We expect that most organizations and individuals will go through the designation or certification process, as applicable, as a one-time requirement only,

except when amendments to the agreement between CMS and the designated organization are made and require a new signature or e-signature from the designated organization.

5. Small Businesses

Small businesses may seek designation from an Exchange on a voluntary basis. Further, organizations, including small businesses, which provide enrollment assistance, are not required to be designated under these provisions to continue providing these services. The burden on small businesses that are eligible organizations and choose to seek to be designated to certify staff or volunteers to act as application counselors will be minimized by the use of a model application and agreement developed by the Exchange as a one-time requirement. In addition, small businesses that may be designated will have discretion in developing processes to register and track the performance of certified application counselors, withdraw certification from an individual staff or volunteer, and obtain authorization from applicants and enrollees. As provided above, HHS will issue guidance with respect to implementation of the certified application counselor program in Federally-facilitated Exchanges so that organizations will have a clear understanding of what is required of the organization.

6. Less Frequent Collection

Implementation of the certified application counselor program, in accordance with final regulations at 45 CFR §155.225, will require collection to allow each Exchange to establish a process for designating organizations or certifying individuals, as applicable. Collections will allow designated organizations to comply with these provisions, such as maintaining a registration process, providing required disclosures and obtaining required authorizations, and responding appropriately to the withdrawal of designation. Organizations that seek to be designated to certify staff or volunteers as application counselors would only be required to submit the required application and agreement with the Exchange one time, unless, in accordance with law, there is a change in eligibility that would require a new application for designation or a material change to the terms to which an organization must agree to remain designated. The information and data reporting requirements requires certified application counselor organizations to comply with reporting standards established by an Exchange, based on the specific needs and objectives of the Exchange. In States with FFEs, CMS will begin collecting information and data from certified application counselor designated organizations on a quarterly basis beginning with the third quarter of calendar year 2017. We believe that this information is needed quarterly because quarterly reporting will allow Exchanges to receive timely data regarding CAC outreach and education activities, without overburdening CAC organizations with monthly reporting requirements. This information can inform Exchange's targeted outreach efforts and identify areas in need of additional assistance. Less frequent collection would create a delay in the Exchange receiving up to date information about current enrollment efforts. We sought comment on the collection frequency.

7. Special Circumstances

None.

8. Federal Register/Outside Consultation

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

The Notice of Proposed Rulemaking associated with this collection published on December 2, 2015 at 80 FR 75487. The Agency received 524 comments, including 34 letters regarding our solicitation for comment on our proposals to amend §155.225(b)(1) to provide that certified application counselor designated organizations must, as a condition of their designation as certified application counselor organizations by the Exchange, provide the Exchange with information and data related to the number and performance of the organization's certified application counselors, and about the consumer assistance being provided by the organization's certified application counselors, upon request, in the form and manner specified by the Exchange. Those comments have been addressed in Appendix M of this request. A Final Rule will publish on February 26, 2016.

9. Payments/Gifts to Respondents

Payments and gifts will not be provided.

10. Confidentiality

In the event of investigations into potential violations of program standards or noncompliance with other requirements that apply to certified application counselors or designated organizations, HHS may collect some personally identifiable information of certified application counselors (e.g., name, unique ID number) or consumers (e.g., name), as this information is provided on the consumer authorization form that is used prior to a certified application counselor assisting a consumer. To the extent provided by law, we will maintain the privacy of any respondent with respect to the information being collected.

We do not expect that information and data collected from certified application counselor organizations in connection with the proposed information and data reporting requirements will include the collection of any consumer PII.

11. Sensitive Questions

We do not foresee circumstances that would require the collection of any questions of a sensitive nature.

12. Burden Estimates (Hours & Wages)

This revised collection relates to an additional burden associated with compiling performance information and data and submitting it to an Exchange. In States with FFEs, HHS anticipates that, beginning with the third quarter of calendar year 2017, it will collect three performance data points each quarter from certified application counselor designated organizations: the number of individuals who have been certified by the organization; the total number of consumers who received application and enrollment assistance from the organization; and of that number, the number of consumers who received assistance applying for and selecting a QHP, enrolling in a QHP, or applying for Medicaid or CHIP. This data will be reported to FFEs electronically, through HIOS or another electronic submission vehicle. For the purpose of estimating costs and burdens, we assume that State Exchanges will collect the same information with the same frequency, although our proposal gives Exchanges the flexibility to determine which data to collect and the form and manner of the collection.

This collection also relates to other requirements of §155.225, including burdens associated with §155.225(b)(1) which requires that designated organizations enter into agreements with CMS, and with §155.225(d)(1) and (7) which, require CACs to take initial certification training and recertification training and become recertified on an annual basis.

Wage per hour for organization and Exchange staff:⁴ certified application counselors, health policy analysts, senior managers, and attorneys are as follows:

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|----------------------------------|---------|
| Certified Application Counselors | \$27.55 |
| Mid-level Health Policy Analyst | \$40.64 |
| Health Policy Analyst | \$49.35 |
| Senior Manager | \$91.31 |
| Attorney | \$90.15 |

A. CAC organization application

Organizations seeking to be designated by CMS as a CAC organization must submit an application. A sample application is provided as an appendix (Appendix A) to this request.

We estimate that it will take an organization up to 1 hour to review instructions and complete and submit an application. For purposes of the cost burden, we estimate it will take a senior manager with a wage of \$91.31 an hour up to 1 hour to complete and submit the application. The total

⁴ Based on Bureau of Labor Statistics, Occupational Employment Statistics, Occupational Employment and Wages, May 2014. Includes fringe benefits calculated at 35% of base wage. http://www.bls.gov/oes/current/oes_nat.htm

estimated cost burden is \$91.31 for each organization seeking designation. We estimate that there will be 5,000 total applicants for a total one-time cost burden for all organizations nationwide of \$456,550.

B. Follow-up questions to certain organizations that submit a CAC organization application

The information submitted by some organizations on their CAC application will trigger CMS to seek some additional information from these organizations. Many completed applications will not require this follow-up information. The follow-up information that may be collected will consist of:

- Description of the processes the organization has in place to protect consumers' personally identifiable information (PII);
- Identification of any rules concerning PII which the organization is already required to follow; and
- Description of the screening processes they use or intend to use for staff and volunteers who they certify to be CACs.

We estimate that it will take an organization up to .5 hours total to respond to this collection. For purposes of the cost burden, we estimate that it will take a senior manager with a wage of 91.31 an hour up to .5 hour to complete and submit the follow-up information electronically. The total estimated cost burden is \$45.65 for each organization that is required to provide the follow-up information. While we do not know exactly how many applicants will receive these follow-up questions, for purposes of analysis we estimate that no more than 20% of applicants might receive them. Therefore, we estimate that these questions will be sent to no more than 1,000 applicants.

C. Information collections associated with the agreement between CMS and the designated CAC organization

Each organization that CMS designates as a CAC organization must enter into an agreement with CMS. That agreement will include a number of provisions, including the following information collections:

Reporting

- *The organization must provide CMS with updates, changes and corrections to the information originally provided on its application, so that information about the organization that is provided to the public on a CMS website will remain current, accurate and complete. These updates, changes and corrections will be submitted electronically.*

We estimate that 5,000 organizations will electronically submit updates, changes and corrections to CMS, on average, a total of 3 times. We estimate it will take a health policy analyst with a professional wage of \$49.35 up to .25 hours to provide this information to CMS each time, for a

total cost burden of \$37.01 for each organization and a total cost burden of \$185,050 for all 5,000 organizations.

- The organization must attest that the organization has entered into agreements with its individual CACs requiring their compliance with CAC requirements.⁵

We estimate it will take a senior manager at the organization up to .25 hours (15 minutes) to enter into each agreement. We estimate the cost burden is \$22.82 per agreement, and we estimate that there will be 5,000 agreements.

- The organization must provide CMS with the names of individuals it has certified as CACs.

We estimate it will take a health policy analyst with a professional wage of \$49.35 up to .25 hours (15 minutes) to provide a list of certified application counselors to CMS for a cost burden of \$12.34 per update. We estimate that there will be up to 5,000 lists provided to CMS.

Third-party disclosures

- The organization must issue certificates to its CAC staff and volunteers when it certifies or recertifies them.⁶

We estimate it will take a health policy analyst with a professional wage of \$49.35 up to .016 hours (1 minute) to issue a certificate for a cost burden of \$0.79 per certification. We estimate that there will be 30,000 certificates.

Recordkeeping requirements

- The designated organization must retain a record of authorization provided by consumers to the organization's CACs for the CAC to obtain access to a consumer's PII.⁷

We estimate it will take a health policy analyst with a professional wage of \$49.35 up to .016 hours (1 minute) to collect each record of authorization for a cost burden of \$0.79 per authorization. We estimate that the time burden associated with maintaining record of the authorization is 0.016 hours (1 minute). We estimate the total cost for the organization to maintain the record of authorization is \$0.79. We estimate that the total cost burden for each organization to collect and maintain authorization is \$1.58 per authorization. Assuming that 2.2 million individuals⁸ provide authorization, this brings the total estimate for this recordkeeping

⁵ See appendix G for "Individual CAC Agreement," for a model agreement between an organization and an individual.

⁶ See Appendices H and I for sample certification certificates, English and Spanish.

⁷ See Appendices J and K for a model authorization form, English and Spanish, which certified application counselors may use to fulfill this requirement.

⁸ This number is based on number of consumers who sought assistance from counselors in the State Health Insurance Assistance Programs (SHIPs) counselor program in 2012. CMS New SHIP Director Training 4 (7th ed., 2013).

requirement to \$3,476,000.

In addition, with respect to the requirement on the CAC to receive authorization from each consumer before obtaining access to the consumer's PII, we estimate it will take a certified application with a wage of \$27.55 an hour 0.25 hours (15 minutes) to obtain the authorization. The total cost estimate for disclosures by each individual certified application counselor is therefore \$6.89. We estimate that the time burden associated with maintaining a record of the authorization is 0.016 hours (1 minute). We estimate the total cost for the individual to maintain the record of authorization is \$0.44, for a total cost burden of \$7.33 per authorization.

Therefore, assuming that 2.2 million individuals provide authorization, this brings the total estimate for this recordkeeping requirement for all organizations to \$16,126,000.

D. CAC recertification request form

Third-party disclosures

- CACs seeking to be recertified by an Exchange or designated organization directly certifying CACs must submit a recertification request form. We expect that establishing a process for recertification would include creating a recertification request form (or similar document) as a one-time requirement.

For an Exchange that performs direct certification, we estimate that up to 18 State Exchanges would develop their own recertification request form.⁹ It would take a health policy analyst (at \$49.35 labor cost per hour) up to 1 hour to create, a senior manager (at \$91.31 cost per hour) up to .5 hours (30 minutes) for review, and an attorney up to .5 hours (at \$90.15 labor cost per hour) for legal review. We estimate that the one-time cost burden would be \$140.08 for each Exchange, and the total cost for 18 State Exchanges would be \$2,521 and the total time burden would be 36 hours.

For a designated organization that performs direct certification, we estimate that up to 5,000 designated organizations would develop their own recertification request form.¹⁰ We estimate that the development of a recertification request form would take a health policy analyst (at \$49.35 labor cost per hour) up to 1 hour to create, a senior manager (at \$91.31 labor cost per hour) up to .5 hours (30 minutes) for review, and an attorney (at \$90.15 labor cost per hour) up to .5 hours (30 minutes) for legal review. We estimate that the one-time time burden would be two hours and the one-time cost burden would be \$140.08 for each organization. The total time burden for 5,000 organizations nationwide would be 10,000 hours and the total cost burden would be \$700,400.

Recordkeeping requirements

⁹ We estimate 18 State Exchanges (which includes Utah) and one Federally-facilitated Exchange will develop their own processes for recertification. HHS will establish a single process in all Federally-facilitated Exchanges.

¹⁰ A model recertification request form that organizations may use or modify is attached as appendix L.

For an Exchange that performs direct certification, we estimate that the time burden associated with maintaining a copy of the request form would be .016 hours (1 minute); we assume a mid-level health policy analyst (would maintain the form through electronic copies at minimal cost, which we estimate as \$0.79 as a one-time requirement for the Exchange. The total cost burden for 18 State Exchanges would be \$14.22, and the total time burden would be 1.08 hours.

For an organization that performs direct certification, there would be recordkeeping requirements associated with developing and maintaining a request form. We estimate that the time burden associated with maintaining a copy of the request form would be .016 hours (1 minute); we assume a health policy analyst with a labor cost of \$49.35 an hour would maintain the form through electronic copies at minimal cost, which we estimate as \$0.79 as a one-time requirement for each organization, and the total cost for 5,000 organizations nationwide would be \$3,950, the total time burden would be 80 hours.

E. Recertification Submission

Reporting

Individual certified application counselors may provide responses to an optional training quality questionnaire associated with completing the requirements for certification and recertification.

Completion of the optional training quality user questionnaire is estimated to have a burden of 0.25 hours (15 minutes) per respondent.¹¹ While completion of the questionnaire is optional, for the purposes of estimating total time and cost burdens we are assuming all individual certified application counselors will complete the questionnaire. For purposes of the cost burden, we estimate that it would take a certified application counselor with a labor cost of \$27.55 an hour up to .25 hours (15 minutes) to complete the optional training quality questionnaire. The estimated cost burden would be \$6.89 for each individual completing the questionnaire. We estimate that potentially 30,000 individual certified application counselors will complete the optional questionnaire for a total cost burden of \$206,700 and a total time burden of 7,500 hours.

Third-party disclosures

There would be third-party disclosure requirements for individual certified application counselors associated with completing the requirements for recertification, whether done directly through the Exchange or through an Exchange-designated certified application counselor organization.

- On an annual basis, this would require completing Exchange required training and might also include satisfying other requirements consistent with the Exchange-established processes, such as providing conflicts of interest disclosures, other attestations and submitting a recertification request form (or similar document) and other attestations.

We estimate that it would take an individual certified application counselor up to .17 hours (10

¹¹ See Appendix F “Training Quality Questionnaire,” for screen shots of the optional training quality questionnaire.

minutes) to respond to this collection. For purposes of the cost burden, we estimate that it would take a certified application counselor with a labor cost of \$27.55 an hour up to .17 hours (10 minutes) to complete and submit the recertification request to the organization or Exchange, as applicable.¹² The estimated cost burden would be \$4.68 for each individual seeking recertification. We estimate that there would be approximately 30,000 recertification requests provided, for a total cost burden of \$140,400 and a total time burden of 5,000 hours for all certified application counselors nationwide.

Responses to the training quality optional questionnaire will be reviewed by CMS staff responsible for developing and updating the certification and recertification training, with an estimated wage of \$33.18 per hour by a mid-level analyst. The time to review each completed questionnaire is estimated to be 0.25 hours (15 minutes) per submission (30,000) for a total time of 7,500 hours.

F. Recertification Review

Third-party disclosures

There would also be third-party disclosure requirements for State Exchanges and designated organizations associated with reviewing each certified application counselor's recertification request. This collection would be required on an annual basis.

- The Exchange or designated organization would notify the individual of the result of its review and issue a new certificate for each individual who successfully completes recertification.¹³ This notice requirement would apply to the Exchange or organization, as applicable, on an annual basis for each individual certified application counselor.

For an Exchange directly recertifying, we estimate that it would take a mid-level health policy analyst in the Exchange up to .08 hours (5 minutes) to notify an individual and issue a certificate if appropriate. The estimated cost burden is \$4.11 for each individual notice, including the certificate. For purposes of this analysis, we estimate that there would be approximately 30,000 certified application counselors nationwide, or approximately 10,600 application counselors in 18 State Exchanges. The total cost burden would be approximately \$2,422 for each State Exchange, and the total cost for 18 State Exchanges would be approximately \$43,593.

For an organization directly recertifying, we estimate that it would take a mid-level health policy

¹² We estimate that a certified application counselor would have a professional wage equivalent to that of an eligibility interviewer for assistance from government programs and agency resources. According to the U.S. Bureau of Labor Statistics, an eligibility interviewer (occupation no. 43-4061) has a labor cost of \$26.65 (including 35 percent fringe benefits).

¹³ A model certificate that an organization may use or modify is attached as an appendix H and I (in Spanish and English language versions).

analyst up to .08 hours (5 minutes) to notify an individual and issue a certificate if appropriate. The estimated cost burden is \$4.11 for each individual notice. For purposes of estimating the burden on designated organizations, of the estimated 30,000 certified application counselors nationwide, we assume that approximately 19,400 of them would be directly certified by designated organizations, or four certified applications counselors on average per designated organization. We estimate that it would take a mid-level health policy analyst up to .08 hours (5 minutes) to notify an individual and issue a new certificate. The estimated cost burden is \$4.11 for each individual notice. For an estimated 19,400 certified application counselors nationwide, or approximately four certified application counselors on average in each organization, the total cost burden would be approximately \$16.44 for each organization. The total burden for 5,000 designated organizations nationwide would be approximately 1,617 hours and the total cost burden would be \$79,734.

Recordkeeping requirements

- There would be recordkeeping requirements associated with issuing each individual notice.

For Exchanges that directly certify, we estimate that the time burden associated with maintaining a copy of the notice and certificate would be .016 hours (1 minute); we assume a health policy analyst with a labor cost of \$49.35 an hour would maintain the form through electronic copies at minimal cost, which we estimate as \$0.79 per notice for each individual certified application counselor. The total recordkeeping cost for 10,600 certified application counselors in 18 State Exchanges would be \$8,374, or \$265 per Exchange. The total time burden is 170 hours.

For organizations that directly certify, we estimate that the time burden associated with maintaining a copy of each certificate issued at recertification would be .016 hours (1 minute); we assume a health policy analyst with a labor cost of \$49.35 an hour would maintain the form through electronic copies at minimal cost, which we estimate as \$0.79 as a per certificate for each organization. The total recordkeeping cost per organization would be \$3.16, and the total cost for 5,000 organizations nationwide would be \$15,326. The total time burden would be 323 hours.

G. Recertification Training

Third-party disclosures

- On an annual basis, each individual certified application counselor would provide proof to the organization or Exchange that he or she has successfully completed the recertification training, in accordance with the Exchange's process

We estimate that it would take an individual certified application counselor up to .03 hours (2 minutes) to respond to this collection. For purposes of the cost burden, we estimate that it would take a certified application counselor with a labor cost of \$27.55 an hour up to .03 hours (2

minutes) to provide the training certificate to the organization or Exchange, as may be required. The total estimated cost burden is \$0.83 for each individual seeking recertification. We estimate that there would be approximately 30,000 training certificates provided, for a total cost burden of \$24,795, and the total time burden would be 1,000 hours for all certified application counselors nationwide.

Recordkeeping requirements

- Each person who receives training would obtain and maintain a record of training certification

We estimate that the time burden associated with maintaining proof of training certification is .016 hours (1 minute), since we assume this proof would be maintained through electronic copies, at minimal cost. The total cost estimated for each individual to maintain proof of training certification would be \$0.44. The total cost burden would be \$13,224 and the total time burden would be 480 hours for all certified application counselors nationwide.

H. Tracking Certified Application Counselor Performance

Reporting

- Each CAC organization will maintain a method to track the performance of its certified application counselors.

We expect that maintaining a method to track performance data will include the development of a tracking form or similar document on a one-time basis. We expect that a health policy analyst (at an hourly wage rate of \$49.35) will spend 4 hours to prepare the form at a cost of \$197.40; and a senior manager (at an hourly rate of \$91.31) will spend .50 hours to review the form at a one-time cost of \$243.05 per CAC organization. We estimate that the total cost burden will be \$1,215,250 and the total time burden will be 22,500 hours for all CAC organizations nationwide.

- Each certified application counselor would report performance information and data to its CAC organization.

We expect that each certified application counselor will need to submit information and data regarding its performance to its CAC organization on a quarterly basis, using a process and form developed by its CAC organization. We anticipate that some CAC organizations will have an electronic form that can be used to submit this data and information. We estimate that it will take each certified application counselor (at a wage of \$27.55 an hour) up to 1 hour to compile and submit its performance data and information to the CAC organization on a quarterly basis, at a total annual cost burden of \$110.20 and a total annual time burden of 4 hours for each certified application counselor. We estimate that on average, there will be 4 certified application

counselors submitting quarterly performance data to 5,000 CAC organizations nationwide. The total annual cost burden will be \$2,204,000 and the total time burden will be 80,000 hours for all certified application counselors nationwide.

Recordkeeping requirements

We estimate that the time burden associated with maintaining data and information to track the performance of certified application counselors will be minimal, since we assume this data and information would be maintained through electronic copies. We estimate that a health policy analyst (at an hourly wage rate of \$49.35) will spend .064 hours (4 minutes) each quarter to maintain a record of the data and information received from 4 certified application counselors. The total annual cost burden for each CAC organization will be \$12.63 for a total time burden of 0.256 hours. We estimate the total annual cost burden to maintain a record of certified application counselor performance data and information will be \$63,150 and the total annual time burden will be 1,280 hours for all CAC organizations nationwide.

I. Reporting Performance Data and Information

Reporting

The rule under §155.225(b)(1)(iii) requires certified application counselor designated organizations to provide the Exchange with information and data regarding the performance of the organization's certified application counselors, and the consumer assistance they provide. This would require that these organizations compile performance information and data and submit it to the Exchanges.

In States with FFEs, beginning with the third quarter of calendar year 2017, HHS will collect three performance data points each quarter from certified application counselor designated organizations: the number of individuals who have been certified by the organization; the total number of consumers who received application and enrollment assistance from the organization; and of that number, the number of consumers who received assistance applying for and selecting a QHP, enrolling in a QHP, or applying for Medicaid or CHIP. For the purpose of estimating costs and burdens, we assume that State Exchanges will collect the same information with the same frequency, although the proposed regulation would give Exchanges the flexibility to determine which data to collect and the form and manner of the collection.

We estimate that certified application counselor designated organizations will have a mid-level health policy analyst prepare the reports and a senior manager will review each quarterly report. HHS expects that a mid-level health policy analyst (at an hourly wage rate of \$40.64) will spend 2 hours each quarter to provide the required quarterly submissions and a senior manager (at an hourly wage rate of \$91.31) will spend 3/8 hour to review the submissions. Therefore, we estimate each quarterly report will require 2.375 hours and a cost burden of \$115.52 per quarter

per organization, or 9.50 hours with a cost (4 quarterly reports) of \$462.08 annually per CAC organization. Nationwide, we estimate there are 5,000 certified application counselor designated organizations, resulting in an annual cost burden of \$2,310,400 and 47,500 hours for all certified application counselor designated organizations.

Under §155.225(b)(1)(iii), if an Exchange requests these certified application counselor reports, the Exchange would also need to review the reports. We assume that all Exchanges will require quarterly reports and will utilize in-house staff to review them. We assume that an employee earning a wage that is equivalent to a mid-level GS-11 employee would review quarterly report submissions from certified application counselor designated organizations. We estimate that a mid-level employee (at an hourly wage rate of \$43.13) will spend 10 minutes reviewing each quarterly report for a cost burden of approximately \$7.19 per quarterly report per certified application counselor designated organization. For State Exchanges, we estimate that there are 1,500 certified application counselor designated organizations resulting in a cost burden of 1,000 hours and approximately \$43,140 annually.

Table 1 - Annual Recordkeeping and Reporting Requirements

| Regulation Section(s) | Respondents | Responses (total) | Burden per Response (hours) | Total Annual Burden (hours) | Labor Cost of Reporting (\$) | Total Cost (\$) |
|--|-------------|-------------------|-----------------------------|-----------------------------|------------------------------|-----------------|
| §155.225(b)(1) (organization designation by Exchange) | 5,000 | 5,000 | 1 | 5,000 | 91.31 (for one respondent) | 456,550 |
| §155.225(b)(1) (updates by organization) | 5,000 | 15,000 | .25 | 3,750 | 12.34 (per update response) | 185,050 |
| §155.225(b)(1) (organization follow-up for application) | 1,000 | 1,000 | .5 | 500 | 45.65 (for one respondent) | 45,655 |
| §155.225(b)(1)(i) (organization attestation) | 5,000 | 5,000 | .25 | 1,250 | 22.82 (per agreement) | 114,100 |
| §155.225(b)(1) (list by organization) | 5,000 | 5,000 | .25 | 1,250 | 12.34 per updated list | 61,687.50 |
| §155.225(b)(1)(i) (certificate issuance) | 5,000 | 30,000 | .016 | 480 | .79 per certificate | 23,700 |
| §155.225(d)(1) and (7) (training quality optional questionnaire) | 30,000 | 30,000 | .25 | 7,500 | 6.89 (per user feedback) | 206,700 |
| §155.225(d)(2) and (f) (organization record of authorization) | 5,000 | 2,200,000 | .032 | 70,400 | 1.58 (per authorization) | 3,476,000 |
| §155.225(d)(2) and (f) (CAC authorization to consumer) | 30,000 | 2,200,000 | .266 | 585,200 | 7.33 (per respondent) | 16,126,000 |
| §155.225(d)(7) (recertification request form by Exchange) | 18 | 18 | 2 | 36 | 140.08 (for one respondent) | 2,521.44 |

| | | | | | | |
|---|--------|--------|-------|--------|--------------------------------|-----------|
| §155.225(d)(7) (recertification request form by organization) | 5,000 | 5,000 | 2 | 10,000 | 140.08 (for one respondent) | 700,400 |
| §155.225(d)(7) (recertification request form recordkeeping by Exchange) | 18 | 18 | .016 | 1.08 | 0.79 (for one respondent) | 14.22 |
| §155.225(d)(7) (recertification request form recordkeeping by organization) | 5,000 | 5,000 | .016 | 80 | 0.79 (for one respondent) | 3,950 |
| optional training quality user questionnaire | 30000 | 30000 | .25 | 7,500 | 8.29 (for one respondent) | 248,700 |
| §155.225(d)(7) (recertification request submission) | 30,000 | 30,000 | .17 | 5,100 | 4.68 (for one respondent) | 140,400 |
| §155.225(d)(7) (proof of training) | 30,000 | 30,000 | .03 | 1,000 | 0.83 (for one respondent) | 24,795 |
| §155.225(d)(7) (training certificate recordkeeping) | 30,000 | 30,000 | .016 | 480 | 0.44 (for one respondent) | 13,224 |
| §155.225(d)(7) (recertification review by Exchange) | 18 | 10,600 | .08 | 883 | 4.11 (for one response) | 43,593 |
| §155.225(d)(7) (recertification review recordkeeping by Exchange) | 18 | 10,600 | .016 | 170 | 0.79 (for one response) | 8,374 |
| §155.225(d)(7) (recertification review by organization) | 5,000 | 19,400 | .08 | 1,617 | 4.11 (for one response) | 79,734 |
| §155.225(d)(7) (recertification review recordkeeping by organization) | 5,000 | 19,400 | .016 | 323 | 0.79 (for one response) | 15,326 |
| §155.225 (b)(ii) (performance tracking form by organization) | 5,000 | 5,000 | 4.5 | 22,500 | 243.06 (per respondent) | 1,215,250 |
| §155.225 (b)(ii) (reporting performance data by certified application counselor) | 20,000 | 20,000 | 4 | 80,000 | 110.20 (per respondent) | 2,204,000 |
| §155.225 (b)(ii) (recordkeeping performance data by organization) | 5,000 | 80,000 | 0.256 | 1,280 | \$12.63 | 63,150 |
| §155.225 (b)(1)(iii)- (reporting by organizations) | 5,000 | 20,000 | 2.375 | 47,500 | 115.52 (per respondent) | 2,310,400 |
| §155.225 (b)(1)(iii)- (review by State Exchange) | 1,500 | 6,000 | 0.167 | 1,000 | 7.19 | 43,140 |
| §155.225 (b)(1)(iii)- | 3,500 | 14,000 | 0.167 | 2,333 | \$7.19 | \$100,660 |

| | | | | | | |
|--|---------|-----------|-------|---------|-------|------------|
| (review by Federally-facilitated Exchange) | | | | | | |
| Total..... | 271,072 | 4,787,275 | | 857,133 | | 27,913,074 |

13. Capital Costs

There are no capital costs needed for this collection requirement.

14. Cost to Federal Government

The designation requirements provided under §155.225 would apply to an Exchange that is being operated by HHS as a Federally-facilitated Exchange or as a State Partnership Exchange, pursuant to HHS authority under section 1321(c)(1) of the Affordable Care Act. These Exchanges are collectively referred to here as Federally-facilitated Exchanges. We note that it is anticipated that HHS would create a single process for designating these organizations to certify their staff or volunteers as certified application counselors, including the creation of a single model application and agreement for use in the Federally-facilitated Exchanges. Therefore, the estimates with respect to establishing a designation process, including the creation of an application and agreement, are on a one-time basis. The burden associated with these provisions is the time and effort necessary for the Federally-facilitated Exchange to create an application, as well as review applications and execute agreements with designated organizations. Additionally, the Federally-facilitated Exchange would investigate and verify potential noncompliance and determine whether to withdrawal an entity’s designation.

The burdens on HHS operating a Federally-facilitated Exchange and by extension, the certified application counselor program in the Federally-facilitated Exchange, include the following burdens: the time and effort necessary to establish a process for designating organizations seeking to have its staff or volunteers certified as application counselors in accordance with §155.225(b) (1) including the time and effort necessary to establish a withdrawal process in accordance with §155.225(e)(1); the time and effort necessary to develop training materials for the training described in §155.225(d)(1); the time and effort necessary to develop the agreement identified in §155.225(b)(1)(A).

Developing a process for designating organizations would be required on a one-time basis for the Federally-facilitated Exchange; we estimate that it will take the Federally-facilitated Exchange up to 20 hours to create a model application and agreement and procedures for withdrawal. For purposes of the cost burden, we estimate it would take a mid-level health policy analyst¹⁴ up to 10 hours, a senior manager¹⁵ up to 5 hours for review and an attorney¹⁶ up to 5 hours for legal review.

14 These positions are estimated to be equivalent to a GS-11 position with the Federal government. https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2015/GS_h.pdf.

15 These positions are estimated to be equivalent to a GS-14 position with the Federal government. https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2015/GS_h.pdf.

16 These positions are estimated to be equivalent to a GS-12 position with the Federal government.

The estimated cost burden would be \$810.10 for the Federally-facilitated Exchange.

| Labor Category | Number of Employees | Hourly Labor Costs (Hourly rate + Fringe benefits) | Burden Hours | Total Burden Costs |
|-----------------------|---------------------|--|--------------|--------------------|
| Health Policy Analyst | 1 | \$33.18 | 10 | \$331.80 |
| Attorney | 1 | \$39.77 | 5 | \$198.85 |
| Senior Manager | 1 | \$55.89 | 5 | \$279.45 |
| Total | 3 | | 20 | \$810.10 |

There are recordkeeping requirements associated with developing and maintaining a model application. The Federally-facilitated Exchange would be expected to maintain a copy of the model application. It is estimated that the time burden associated with maintaining a copy of the model application would be 0.016 hours (1 minute); we assume the model application will be maintained through electronic copies with minimal cost. We assume a mid-level health policy analyst with a professional wage of \$33.18 an hour will maintain the model application through electronic copies with minimal cost, which we estimate as \$0.50 as a one-time requirement for the Federally-facilitated Exchange.

The cost burden associated with reviewing each application and notifying the organization of the result of its review would apply to the Federally-facilitated Exchange for each organization that seeks to be designated. It is anticipated that this application would be a one-time requirement for the organization seeking to be designated. Therefore, the burden estimated for reviewing the application is on a per organization basis. We estimate that it would take the Federally-facilitated Exchange up to 1.16 hours to review an application. For purposes of the cost burden, we estimate it would take a health policy analyst up to 1 hour and a senior manager up to .16 hours to review. The estimated cost burden would be \$39.77 for each organization.

| Labor Category | Number of Employees | Hourly Labor Costs (Hourly rate + Fringe benefits) | Burden Hours | Total Burden Costs (per organization) |
|-----------------------|---------------------|--|--------------|---------------------------------------|
| Health Policy Analyst | 1 | \$33.18 | 1 | \$33.18 |
| Senior Manager | 1 | \$55.89 | .16 | \$8.94 |
| Total | 2 | | 1.16 | \$42.12 |

The Federally-facilitated Exchange will enter into agreements with designated organizations

https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2015/GS_h.pdf.

meeting all requirements in accordance with §155.225(b)(1)(A). The burden estimates for executing each agreement is on a per organization basis. We estimate that it would take a senior manager at the Federally-facilitated Exchange up to .25 hours to execute each agreement, using a physical signature or e-signature.

| | Number of Employees | Hourly Labor Costs (Hourly rate + Fringe benefits) | Burden Hours | Total Burden Costs (per agreement) |
|----------------|---------------------|--|--------------|------------------------------------|
| Senior Manager | 1 | \$55.89 | 0.25 | \$13.97 |
| Total | 1 | | .25 | \$13.97 |

There are recordkeeping requirements associated with this requirement. We estimate that the time burden for maintaining proof of each signed agreement is 1 minute (.016 hours). We estimate the cost estimate for the senior manager at the Federally-facilitated Exchange to maintain proof of each agreement is \$.84, for a total estimated cost burden of \$14.03 per organization.

In accordance with §155.225(e), when appropriate, the Exchange will withdraw designation from an organization when it finds noncompliance with the terms and conditions of the organization’s application counselor agreement. The Exchange will investigate instances of noncompliance it identifies or that are reported, and notify the appropriate organization, or individual as applicable, when it determines noncompliance necessitates withdrawing the applicable entity’s designation. There are recordkeeping requirements associated with these procedures. The Exchange is expected to maintain a record of each verification review and copy of any withdrawal notification. We estimate that it will take the Exchange up to 3 hours to investigate, maintain a record, and notify an organization or individual, as applicable, of the withdrawal of its certification, respectively. For purposes of the cost burden, we estimate it will take a mid-level health policy analyst up to 2 hours to investigate, draft, and send notification of withdrawal and a senior manager up to 1 hour to review. We estimate the cost burden is \$122.25 for each occurrence.

| | Number of Employees | Hourly Labor Costs (Hourly rate + Fringe benefits) | Burden Hours | Total Burden Costs (per reported occurrence) |
|-----------------------|---------------------|--|--------------|--|
| Health Policy Analyst | 1 | \$33.18 | 2 | \$66.36 |
| Senior Manager | 1 | \$55.89 | 1 | \$55.89 |
| Total | 2 | | 3 | \$122.25 |

There are recordkeeping requirements associated with this requirement. We estimate that the time burden for maintaining an electronic record is 1 minute (.016 hours). We estimate the cost estimate for a health policy analyst at the Exchange to maintain proof of each agreement is \$.50, for a total estimated cost burden of \$122.75 per occurrence.

Responses to the training quality optional questionnaire will be reviewed by CMS staff responsible for developing and updating the certification and recertification training, with an estimated wage of \$33.18 per hour.¹⁷

Hours: 0.25 hours (15 minutes) per submission

Cost: \$33.18 mid-level range x .25 hours (15 minutes) per submission = **\$8.29 per submission**

The rule requires certified application counselor organizations to submit data and information to the Exchanges regarding the performance of their certified application counselors and the consumer assistance they provide, upon request, in a form and manner specified by the Exchange. Under §155.225(b)(1)(iii), if a Federally-facilitated Exchange requests these certified application counselor reports, the Exchange would also need to review them. Federally-facilitated Exchanges will require quarterly reports and will utilize in-house staff to review them. We assume that an employee earning a wage that is equivalent to an upper-level GS-11 employee would review quarterly report submissions from certified application counselor designated organizations. We estimate that the employee (at an hourly wage rate of \$43.13) will spend 10 minutes (.16 hours) reviewing each quarterly report for a cost burden of approximately \$7.19 per quarterly report per certified application counselor designated organization. We estimate there are 3,500 certified application counselor designated organizations in the Federally-facilitated Exchanges, resulting in a total annual burden of 2,333 hours, at a cost of \$100,660.

| Labor Category | Number of Employees | Hourly Labor Costs (Hourly rate + Fringe benefits) | Burden Hours | Total Burden Costs |
|-----------------------------------|---------------------|--|--------------|--------------------|
| Upper-level Health Policy Analyst | 1 | \$43.13 | .16 | \$7.19 |

15. Changes to Burden

This revised collection increased the total time burden by 163,432 hours, from 693,701 hours to 857,133 hours. The change in burden is mainly due to newly proposed requirements associated with tracking performance data and information by each certified application counselor and

¹⁷ These positions are estimated to be equivalent to a GS-11 position with the Federal government. Wage data from OPM GS Wage Tables at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2015/GS_h.pdf.

designated organization. There are additional requirements being proposed related to reporting of performance data and information by each certified application counselor organization to an Exchange, and the review of that data and information by the Exchange to which it has been submitted. CMS inadvertently overlooked the burden associated with CMS' review of the optional training quality user questionnaire and is additional burden associated with the collection in this proposed submission.

16. Publication/Tabulation Dates

At this time, HHS does not expect that the information and data collected from certified application counselor organizations in accordance with proposed §155.225(b)(1)(iii) will be published or shared with other agencies.

17. Expiration Date

Not applicable.