

**Response to Public Comments**  
**Medical Necessity and Contract Amendments Under Mental Health Parity**  
**CMS-10556 (OMB 0938-1280)**

In our April 10, 2015, proposed rule (80 FR 19418) we solicited public comment on each of the section 3506(c)(2)(A) required issues. PRA-related comments were received (see below for a summary of the comments along with our response). While the changes that were made as a result of these comments did not revise the majority of the proposed requirements and burden estimates, burden for the requirements under §438.920 (specific to performing and posting the parity analysis on the state's website) were added to the final rule based on the comments received. Commenters raised concerns that the cost analysis of the proposed rule failed to consider the administrative cost to the states of providing MH/SUD services through MCOs and through FFS delivery systems. The proposed rule did not set forth such burden since we requested comments on our proposed approach.

Comment: Two commenters expressed concerns that the cost analysis of the proposed rule fails to consider the administrative cost to the states of providing MH/SUD services through MCOs and through FFS delivery systems. They stated that significant administrative costs would be associated with creating new ongoing reporting mechanisms for states and MCOs to provide detailed information on their quantitative and nonquantitative limits across multiple MCOs and the FFS structure, perform the parity analysis, post on the states website and report to CMS. Commenters also stated that these requirements would require state staff to review the rule, review each contract, develop appropriate language needed in each contract, and process the amended contract through the administrative channels. The actual time needed to address this would be many times greater than the proposed estimate.

Response: We recognize that the administrative burden of implementing this rule will vary across states and MCOs, and intend for the numbers cited above are a national estimate of burden across all impacted entities. We note that efficiencies can be achieved regarding implementation of this rule through the use of standardized processes, and that technical assistance provided to states is intended to help to reduce the administrative burden. However, we do agree with the commenters that there will be an additional burden to states to perform and/or review the parity analysis, document compliance and post it to the state's website. We have included the projections of this additional burden in section V.B.7 of the final rule and under section 12.2.3 of the Supporting Statement (ICRs for State Analysis and Transparency Responsibilities (§438.920)).