

Response to Public Comments
Medicaid and Children’s Health Insurance Program (CHIP) Programs; Medicaid Managed Care, CHIP Delivered in Managed Care, and Revisions Related to Third Party Liability

On June 1, 2015, proposed rule CMS-2390-P (RIN 0938–AS25) published in the Federal Register (80 FR 31098) and provided 60 days for public comment. The following PRA-related comments were received.

Comment: We received one comment on the burden estimate for proposed §438.8: “MCOs report to the state annually their total expenditures on all claims and non-claims related activities, premium revenue, MLR and remittance owed. \$2,185,050.56 [568 contracts x \$3,846.92 ((32 hr x \$73.60/hr) + (16 hr x \$53.32/hr)]. The commenter believed that this number should account for MCO time and expense required to complete financial reporting and encounter data submission and believed the estimate only reflected the financial reporting.

Response: The hours reflected in the estimate are for the calculation and reporting requirements proposed in §438.8(c). The estimates quoted in the comment are for continuation of reporting in 2017 and beyond. The estimates in the COI for 2016 included 115 additional hours for initial process development and programming. Hours for submitting encounter data are not included as that is a requirement under existing §438.242 and the COI only reflects changes in hours based on proposed changes. To the extent changes were proposed in §438.242, hours were appropriately reflected for that section. We decline to revise this estimate.

Comment: We received a few comments expressing concern that the beneficiary support systems will not be funded adequately to be effective. CMS estimates one-time expenditures of 150 hours to create a call center and 3 hours to create provider education materials, plus one hour annually for those same materials (see 80 FR at 31182). The commenters disagreed that states would use call centers and existing ombudsman program and, therefore, would incur more expense than estimated. Commenters believed that an effective beneficiary support network would require time and resources that far exceed the current estimates.

Response: We are unclear why the commenters believe our estimates are low. Many states already have call centers and/or use enrollment brokers to perform many of the functions proposed in §438.71. While some states may need to amend their existing contracts or provide additional staff training, we believe that most already have the foundation for the beneficiary support system between existing state, contractual, and ombudsman resources. We decline to revise this estimate.

Comment: One commenter believed that CMS vastly underestimated the amount of time it takes to develop training and education materials and to keep those materials updated for the proposed provisions in §438.71(b)(1)(ii) and (d) in a continuously changing health care environment.

Response: Based on comments received to proposed provisions in §438.71(b)(1)(ii) and (d), we will not be finalizing those paragraphs. See section I.B.5.c. for additional detail.

Comment: One commenter believed the COI estimate for proposed §438.208(b)(2) of 10 minutes at a social worker’s rate is low and should be 20-30 minutes at a nurse’s rate.

Response: We disagree with the commenter that the burden estimate is low. There is great variation in the processes used by states and managed care plans to accommodate transition periods. Many provide a period of time for all new enrollees to maintain existing provider

relationships while locating a participating provider. Many also give automatic transition periods based on the enrollee's course of treatment. For example, many managed care plans automatically authorize pregnant women to remain with their existing provider through their postpartum visit. These types of mechanisms reduce the average amount of time and the type of managed care plan staff needed per enrollee. As such, we believe our estimate is a reasonably representative average. We decline to revise our estimate.

Comment: We received one comment on the COI burden estimate in §438.242: "MCOs collect and submit to the state enrollee encounter data. 820 hr (41 PAHPs x 20 hr) and \$60,352 (820 hr x \$73.60/hr)." The commenter believed CMS is drastically under valuing the time and expense it takes to build this capability within complex systems.

Response: We disagree that the estimated hours undervalue the time necessary given that the majority of encounter data is sent to a managed care plan in a standardized format (most often the ASC X12N 837) which is also the format that §438.242 requires that the managed care plan utilize when submitting the same data to the state. The use of standardized formats was included in §438.242 to, among other reasons, minimize the amount of programming time and customization needed and permit managed care plans to maximize the efficiencies of submitting encounter data in the same format in which it receives most claim data. Additionally, §438.242 has required managed care plans to submit encounter data to the state since part 438 was finalized in 2002; we do not believe the changes proposed here will require managed care plans in most states to make an unreasonable amount of programming changes. We decline to revise our estimate.