Supporting Statement
Medical Loss Ratio Annual Reports, MLR Notices, and Recordkeeping Requirements
(CMS-10418 - OMB Control Number - 0938 -1164)

A. Justification

1. Circumstances Making the Collection of Information Necessary

Section 2718 of the Public Health Services Act (PHS Act) requires a health insurance issuer (issuer) offering group or individual health insurance coverage to submit a report to the Secretary of HHS concerning the amount the issuer spends each year on claims, quality improvement expenses, non-claims costs, Federal and State taxes, licensing and regulatory fees, earned premium, and beginning with the 2014 reporting year, the amounts related to the transitional reinsurance, risk corridors, and risk adjustment programs established under sections 1341, 1342 and 1343 respectively of the Affordable Care Act. An issuer must provide a rebate to policyholders if the amount it spends in a reporting year on certain costs compared to its premium revenue (excluding Federal and States taxes and licensing and regulatory fees) is below a certain ratio, referred to as the medical loss ratio (MLR). Specifically, section 2718(b) requires an issuer to provide a rebate to each of its policyholders if the MLR for the respective reporting year is less than 85 percent in the large group market or less than 80 percent in the small group or individual market. The implementing regulations for this provision are located in Part 158 to Title 45 of the Code of Federal Regulations. Under Section 1342 of the Patient Protection and Affordable Care Act, issuers of qualified health plans (QHPs) must participate in the risk corridors program and pay charges to or receive payments from HHS based on the ratio of the issuer's allowable costs to the target amount. The implementing regulation for this provision is located in 45 CFR Part 153. For benefit years 2014 through 2016, a QHP issuer is required to annually submit data to HHS that includes information on the issuer's allowable costs, allowable administrative costs, taxes and premiums.

The following information collections are included in this request:

Annual Report. Under 45 CFR §§158.110 and 153.530, issuers are required to submit an annual data report to the Secretary by July 31 of the year following the end of an MLR reporting / risk corridors benefit year. The annual report must be submitted to the Secretary by July 31, 2016 for the 2015 reporting year. Sections 158.120 through 158.260 and 153.530 set out the data requirements for this report. In addition, under 45 CFR §158.260, each issuer must also submit a report to the Secretary concerning the rebates provided to and on behalf of enrollees. Section 158.260 requires that this report be submitted with the annual report under §158.110. The annual reporting form for the 2014 reporting year was approved by OMB Control Number 0938-1164. This information collection updates the annual reporting form for changes in the requirements regarding the reporting of risk corridors data that apply to the 2015 reporting year.

QHP issuers are also required to submit a Risk Corridors Plan-Level Data Form for each year of the temporary risk corridors program. The Risk Corridors Plan-Level Data Form will be used to calculate risk corridors payment and charge amounts. Each company with at least one health insurance issuer that offered a certified QHP through the Federal or State-based Marketplace during the 2015 benefit year will submit The Risk Corridors Plan-Level Data Form with plan-specific

premium data for each of its QHP issuers in the individual or small group markets. This data submission is authorized by 45 CFR Part 153.

Notices. As specified in 45 CFR §158.240(a), an issuer must provide rebates to enrollees and policyholders on behalf of enrollees when the issuer's MLR does not meet the applicable minimum MLR standard. Section 158.250 requires an issuer to provide information in the form of a rebate notice to policyholders who are owed a rebate and subscribers whose policyholders are owed a rebate. As also provided in 45 CFR §158.250, CMS has developed a standard form for the rebate notice that each issuer must send by September 30 of the year following the reporting year for which policyholders are entitled to a rebate. The standard rebate notice for the 2015 MLR reporting year must be sent by September 30, 2016. The rebate notices were already approved by OMB Control Number 0938-1164. The burden estimate is updated based upon the annual reports that were received for the 2014 reporting year.

Recordkeeping. The MLR regulations contain two recordkeeping requirements. Section 158.502 requires an issuer to maintain all documents and other evidence necessary to enable CMS to verify that the data submitted by the issuer is in compliance with 45 CFR Part 158, including all documents, records, and other evidence used to calculate the MLR and any rebates, and that any rebates owing in accordance with 45 CFR Part 158 are provided. Section 158.501 requires an issuer to preserve and maintain all such documents, records, and other evidence for the MLR reporting year as well as six prior years unless a longer period is required under §158.501. This information collection was also approved by OMB Control Number 0938-1164 and is not being revised at this time. The burden estimate has been updated based upon the annual reports received for the 2014 reporting year.

Section §153.520(e) requires a QHP issuer to maintain documents and records sufficient to enable the evaluation of the issuer's compliance with applicable risk corridors standards, for each benefit year for at least 10 years, and must make those documents and records available upon request from HHS, the OIG, the Comptroller General, or their designees, to any such entity, for purposes of verification, investigation, audit or other review. The burden associated with this recordkeeping requirement is already accounted for in the Supporting Statement approved under OMB 0938-1155.

2. Purpose and Use of Information Collection

The data collection of annual reports provided by an issuer for each State's individual, small group, and large group markets will be used by CMS to ensure that consumers are receiving value for their premium dollar by calculating each issuer's MLR and any rebate payments due for the respective MLR reporting year, as well as verifying the provision of any rebates and rebate notices. CMS will also use the annual reports data collection to ensure that each QHP issuer in the individual or small groups market either pays or receives accurate risk corridors amounts.

The standardized notices will be used to ensure that consumers are receiving information about the rebate they will be receiving, how their issuer is using health care premium dollars and about the value they are receiving for their premium dollar. The notices will help provide greater transparency to consumers. The recordkeeping requirements will be used by CMS to determine issuers' compliance with the MLR and risk corridors requirements, including compliance with how issuers'

experience is to be reported, how their MLR and any rebates owed are to be calculated, distribution of rebates and provision of rebate notices.

3. Use of Improved Information Technology and Burden Reduction

Each issuer will submit its annual report electronically to the Secretary for each respective State and market in which it conducts business. (OMB Control Number 0938-1086**.)** Information will be collected electronically through CMS' HIOS computer system. This will require registration of the issuer, providing issuer information for the purpose of the collection, and will be the same process as the one used for the 2014 reporting year. Issuers who have already registered with our MLR module within the HIOS system will not need to register again.

4. Efforts to Identify Duplication and Use of Similar Information

There is no similar information collected related to MLR. In addition, as stated in the HHS Notice of Benefit and Payment Parameters for 2015 final rule (79 FR 13744 (March 11, 2014)), CMS is leveraging the similarity of the data elements between the two programs by collecting the risk corridors data on the same form and at the same time as the MLR data. As indicated in the Supporting Statement approved under OMB 0913-1155, CMS modified the MLR Reporting Form approved under OMB control number 0938-1164, to add reporting elements (for example, QHP-specific premium amounts) that are required under the risk corridors data submission requirements under §153.530.

5. Impact on Small Businesses or Other Small Entities

As stated in the Regulatory Impact Analysis of OCIIO-9998-IFC (75 FR 74864 (December 1, 2010)), CMS does not believe that the required submission of annual reports to the Secretary will have a significant impact on a substantial number of small entities. CMS estimates that of the 538 issuers who must report annually to the Secretary in compliance with OCIIO-9998-IFC, there are only approximately 118 small entities, or roughly 22 percent, who must comply with the reporting mandate. This estimate may overstate the actual number of small health insurance issuers that would be affected, since it does not include receipts from these companies' other lines of business.

6. Consequences of Collecting the Information Less Frequently

Section 2718 of the PHS Act and section 1342 of the Patient Protection and Affordable Care Act require reports to be submitted annually. CMS will use the information reported to assess whether each issuer is in fact providing policyholders with health care value in return for their premium dollars and to ensure that the risk corridors amounts transferred between QHP issuers and CMS are accurate.

Regarding notices, section 2718 of the PHS Act requires issuers to provide rebates annually if they do not meet the applicable MLR standard. Since rebates are provided annually, notices of rebates are required to be provided to policyholders annually in order to inform policyholders about any rebates owing.

7. Special Circumstances Relating to the Guidelines of 5 CFR 1320.5

No special circumstances apply to thesecollections.

8. Comments in Response to the Federal Register Notice/Outside Consultation

CMS published the notice of the revised Medical Loss Ratio (MLR) PRA package in the Federal Register on February 19, 2016 (81 FR 8498). The 60-day comment period closed on April 19, 2016. CMS received 3 public comments on a number of specific issues from America's Health Insurance Plans (AHIP) and Blue Cross Blue Shield Association. A summary of the comments and CMS responses is attached.

Most comments requested clarification of the instructions and indicated several areas in the 2015 MLR Annual Reporting Form and the Risk Corridors Plan Level Data Form contained errors and inconsistencies. Commenters additionally requested that CMS clarify its policy regarding the treatment of reconciled cost-sharing reduction payments and updated risk adjustment amounts in the risk corridors and MLR calculations.

In the information collection package that will be open for 30-day public comment, CMS has revised the 2015 MLR Annual Reporting Form and Risk Corridors Plan Level Data Form and Instructions to correct formula errors and inconsistencies and to add the clarifications requested by commenters.

9. Explanation of any Payment/Gift to Respondents

Respondents will not receive any payments or gifts as a condition of complying with these ICRs.

10. Assurance of Confidentiality Provided to Respondents

As required by section 2718(a) of the PHS Act, CMS does intend to publish issuers' annual reports on its internet website. However, no individually identifiable personal health information will be collected and consequently cannot be disclosed. Plan-specific information collected for the risk corridors program (Risk Corridors Plan-Level Data Form), does not include personal health information and will not be published on the CMS website.

11. Justification for Sensitive Questions

These ICRs do not contain sensitive questions.

12. Estimates of Annualized Burden Hours (Total Hours and Wages)

The burden estimates associated with the annual report, rebate notice, rebate disbursements, risk corridors data, and recordkeeping requirements are discussed below. We have updated the burden estimates based on the MLR experience for the 2014 reporting year and the incorporation of the risk corridors data reporting elements into the annual report. We estimate that each annual filing and rebate disbursement cycle will require on average slightly less than 55 person-days of effort per issuer (approximately 437 burden hours divided by 8-hour work days).

Annual MLR Report

An issuer is required to submit an annual report to the Secretary for each State and market segment in which it issues health insurance coverage. As described in the regulatory impact analysis (RIA) of OCIIO-9998-IFC, the preparation and submission of reports is expected to require a mix of skills.

We also estimate that issuers will use a mixture of professional staff, accounting staff, and clerical staff to prepare, review, and issue rebate notices and rebate checks or premium credits, and to perform recordkeeping activities and to upload the report to the HIOS system. The average hourly compensation, including fringe benefits and overhead expenses is $53.72 for ongoing annual reporting[1]. Previous burden estimates related to these requirements have been updated based on 2014 MLR and risk corridors data submissions.

As set out in 45 CFR §§158.110, 158.260, and 153.530, the annual report to the Secretary is comprised of several parts: data concerning the amount the premium dollars the issuer spends each year on claims, quality improvement expenses, non-claims costs, Federal and State taxes, licensing and regulatory fees, and the transitional reinsurance, risk adjustment, and risk corridors amounts based upon the relevant MLR reporting year; the correlating risk corridors calculation; the correlating MLR and rebate (if any) calculation; and data regarding disbursement of rebates based on the prior MLR reporting year.

On July 31, 2016, 538 issuers are expected to file a total of 2,818 annual reports with the Secretary.[2] Of the 538 issuers, 45 issuers offer student health coverage in addition to group or individual market coverage and 8 issuers only offer student health insurance coverage. In addition, an estimated 257 of the 538 issuers will submit approximately 321 Risk Corridors Plan-Level Data Forms as part of their annual reports. As shown in Table 1 below, for the 485 issuers that offer coverage in the group and/or individual markets only, it is estimated that each issuer will, on average, incur a burden of approximately 334 hours (and an equivalent cost of approximately $17,929) annually and, because of operating in several States and markets, will submit on average 5.2 reports a year. The 45 issuers that are expected to submit data on student health insurance coverage in addition to data on individual and/or group market offerings will incur additional reporting burden of 5 hours each, for a total of 339 hours (and an equivalent cost of approximately $18,198) annually. In addition, there are 8 issuers that offer coverage exclusively in the student health insurance market. It is estimated that each issuer will incur an annual reporting burden of 10 hours (an equivalent cost of $537). The 257 issuers that submit risk corridors related data will incur an additional annual burden of 6 hours per report, or approximately 7.5 hours per issuer (and an equivalent cost of approximately $403). Actual burden and cost for most issuers are likely to become lower as issuers gain experience with the form and reporting requirements.

[1] Wage Estimate: to derive average costs, we used data from the U.S. Bureau of Labor Statistics' May 2014 National Occupational Employment and Wage Estimates for all salary estimates (http://www.bls.gov/oes/current/oes_nat.htm). In this regard, the wage data on the following pages includes the cost of fringe benefits and the adjusted hourly wage.

[2] These numbers are based upon the actual MLR reports that issuers filed for the 2014 MLR reporting year. A report includes data for multiple markets (individual, small group, large group) for an issuer in a State. An issuer may combine multiple reports in one filing.

Table 1: Burden and Cost Estimates for Annual Report

Form	Type of Respondent	Number of Respondents	Average Number of Reports per	Frequency	Estimated Burden Hours per Respondent	Wage per Hour (incl. fringe)	Burden Cost Per Respondent	Total Estimated Burden Hours
Annual Report for issuers not offering student health insurance coverage	Private Company	485	5.2	1	333.73	$53.72	$17,929	161,860
Annual Report for issuers offering student health insurance coverage in addition to other coverage	Private Company	45	5.2	1	338.73	$53.72	$18,198	15,243
Annual Report for issuers offering student health insurance coverage only	Private Company	8	1	1	10	$53.72	$537	80
Annual Risk Corridors Plan Level Data Form for QHP issuers	Private Company	257	1.25	1	7.49	$53.72	$403	1,926

Notice of Rebate and disbursement of rebate checks

The regulation also requires each issuer that does not meet or exceed the minimum MLR standard to provide rebates to its policyholders as well as notice of such rebates to policyholders and to subscribers of group policyholders.

It is estimated that 120 issuers in the individual and group markets will owe rebates and each issuer will provide rebate notices to approximately 30,870 policyholders and subscribers on average (Table 2). We estimate that approximately 13,717 notices will be sent per issuer electronically and approximately 17,153 notices will be sent per issuer by first class U.S. mail. We assume that the cost of sending notices electronically is negligible. The cost for sending notices via U.S. mail for each issuer is estimated to be roughly $9,631 ($33.62 per hour x 286.46 burden hours) in labor costs and approximately $9,263 (17,153 notices x $0.54 mailing and supply costs per notice) in mailing costs, for a total annual cost of approximately $18,893 (Table 2).

It is estimated that approximately 55 issuers in the individual market will disburse rebates in some form to subscribers by September 30 of the year following the end of the MLR reporting year, whether by premium credit, check, or refund via credit or debit card (Table 2). Assuming that the issuers will disburse 50% of the rebates in the form of an actual check, we project that each of these 55 issuers will issue approximately 15,632 checks on average. Each issuer is estimated to expend approximately $17,067 in labor costs and an additional $782 in processing costs, for a total ongoing cost of approximately $17,849 a year (Table 2). The remaining rebates will be issued through premium credit or refunds via credit or debit card. Costs of paying rebates through one-time electronic reimbursement are expected to be negligible. It is estimated that approximately 96 issuers in the group market (including some of the issuers that also owe rebates in the individual market) will provide rebates to policyholders for disbursement to subscribers. We expect that the rebates to policyholders will be issued electronically and the related costs will be negligible.

Table 2: Burden and Cost Estimates for Notice of Rebates and Disbursement of Checks

Type of Respondent and Forms	Number of Respondents	Average Number of Notices or Checks per Respondent	Average Mailing and Supplies Cost Per Notice or Check	Estimated Burden Hours per Rebate Cycle	Wage per Hour (incl. fringe)	Total Estimated Burden Cost for Notices or Checks Per Respondent	Total Estimated Burden Hours (Ongoing)
Private Company for Notice of rebates to Subscribers and Policyholders	120	30,870	$0.54	286.46	$33.62	$18,893	34,375
Private Company for Disbursement of checks	55	15,632	$0.05	390.81	$43.67	$17,849	21,494

As issuers gain experience with the MLR requirements, it is likely that fewer issuers will owe rebates to fewer enrollees in future years and therefore the burden and costs associated with the rebate notices and disbursement of checks will be lower as well.

13. Estimates of other Total Annual Cost Burden to Respondents or Record Keepers/Capital

Costs Recordkeeping Requirements

Each issuer is also obligated to maintain all documents, records and other evidence that supports the data submitted by the issuer in its annual report(s) to the Secretary.

Each of the 538 issuers expected to submit an annual report to the Secretary must maintain the supporting documentation for seven years. We estimate that each issuer will spend approximately $16 a year (Table 3) in maintaining the supporting documents for the respective MLR reporting year.

Each QHP issuer is also required to maintain documents and records related to risk corridors data for each benefit year for at least 10 years. The burden associated with this recordkeeping requirement is already accounted for in the Supporting Statement approved under OMB Control Number 0938-1155.

Table 3: Burden and Cost Estimates for Retention of Records

Forms (if necessary)	Type of Respondent	Number of Respondents	Average Number per Respondent	Frequency	Estimated Burden Hours per Respondent (Ongoing)	Total Estimated Burden Hours	Wage per Hour (including fringe)	Burden Cost for Annual Retention of Records
Retention of	Private Company	538	5.2	1	0.32	170.02	$50.16	$15.85

14. Annualized Cost to Federal Government

Table 4: Estimate of Cost to Federal Government

Type Federal Employee Support	Total Burden Hours per Reviewer	Total Reviewers	Hourly Wage Rate (GS 14 equivalent) – (includes fringe)	Total Federal Government Costs
Data Analysis	3 hours per data submission for each Annual filing (538 filers once per year – 1,614 hours)[3]	1	$70.95	$114,515

Salaries are based on a 14 Grade/Step 1 in the Washington DC area and include benefits.

15. Explanation for Program Changes or Adjustments

Based upon CMS' experience in the MLR and risk corridors data collection and evaluation process, CMS is updating its annual burden hour estimates to reflect the actual numbers of submissions, rebates and rebate notices.

In 2016, it is expected that issuers will submit fewer reports on average, and send fewer notices to policyholders and subscribers, which will reduce burden on issuers. On the other hand, it is expected that issuers will send more rebate checks in the mail to individual market policyholders, which will increase burden for some issuers. It is estimated that there will be a net reduction in total burden from 271,600 to 235,148.

CMS did not receive any comments regarding the burden estimates published on February 19, 2016 in the 60-day Federal Register Notice (81 FR 8498). Modifications to the instructions and collection instruments are the result of public comment and have been made to correct minor errors and to provide additional clarifications. These modifications do not affect the burden hours or costs previously estimated. CMS has not identified any other factor that would necessitate a change to the burden estimates.

[3] A data submission includes filings for all States by a single issuer.

16. Plans for Tabulation and Publication and Project Time Schedule

The annual report of MLR and risk corridors data for the 2015 reporting year is due to the Secretary by July 31, 2016.

17. Reason(s) Display of OMB Expiration Date is Inappropriate

Not applicable.