

**Supporting Statement for the Information Collection Requirements  
Contained in the Grants to States for Rate Review Cycle IV and Effective Rate Review Program  
CMS-10380/0938-1121**

**A. Justification**

**1. Circumstances Making the Collection of Information Necessary**

Grants to States for Rate Review

On March 23, 2010, the President signed into law H.R. 3590, the Patient Protection and Affordable Care Act (ACA), Public Law 111-148. Section 1003 of the Affordable Care Act amends the Public Health Service Act by adding Section 2794 "Ensuring Consumers Receive Value for Their Dollars." This section requires the Secretary (the Secretary) of the U.S. Department of Health and Human Services (HHS) in conjunction with states and territories, to establish a process for the annual review of health insurance premiums to protect consumers from unreasonable, unjustified and/or excessive plan increases. This requirement was effective beginning with the 2010 plan year.

Section 2794(c) directs the Secretary to carry out a program to award grants to states, which are to serve the following purposes:

- (1) Establish or enhance rate review programs, referred to as "Rate Review" activities;
- (2) Help states to provide data to the Secretary regarding trends in rate increases as well as recommendations regarding plan participation in the Exchange, referred to as "Required Rate Reporting" activities;
- (3) Establish or enhance Data Centers that collect, analyze, and disseminate health care pricing data to the public, referred to as "Data Center" activities.

Congress appropriated \$250 million to be awarded in federal fiscal years (FFYs) 2010 through 2014.

HHS released the Premium Review Grants Cycle I funding opportunity twice; first to states (and the District of Columbia) in July 2010 and then to the territories and the five states that did not apply during the first release. The second release was due to the decision that the territories were subject to provisions of the ACA and hence eligible for the Rate Review Grants. Forty-five states, five territories, and the District of Columbia were awarded grants.

On February 24, 2011, HHS released the Funding Opportunity Announcement (FOA) for Cycle II Premium Rate Review Grants. In Phase I, HHS awarded \$109 million to 29 states. In Phase II, \$8 million was awarded to one state and three territories on September 21, 2012. On December 21, 2012, Cycle II of the Rate Review Grant Program was amended in order to include an additional application date as states prepared for the establishment of Exchanges in 2014. In Phase III, one state was awarded \$2 million.

On May 8, 2013, HHS released the Cycle III FOA of the Rate Review Grants. On July 9, 2013, HHS released an amendment to the Cycle III FOA that extended the Letter of Intent deadline. In Cycle III, twenty states and one territory were awarded a total of \$67,634,277.00.

On May 29, 2014, HHS released the FOA for Cycle IV of the Rate Review Grants, *Grants to States to Support Health Insurance Rate Review and Increase Transparency in the Pricing of Medical Services*. The purpose of Cycle IV of the Rate Review Grant Program was to continue the rate review successes of Cycles I, II, and III, as well as to provide greater support to Data Centers, thereby enhancing medical pricing transparency.

As in Cycle II and Cycle III, the Cycle IV grant provided resources to states to improve their rate review processes. Cycle IV also provided states the opportunity to continue enhancing or establishing Effective Rate Review Programs, Required Rate Reporting activities, and/or Data Center activities.

Any state applying for a Cycle IV grant to develop or enhance its rate review activities had to demonstrate that the state either: (i) already meets the Effective Rate Review Program criteria described in the final regulation; or (ii) as a result of receiving Cycle IV grant funds, it will have the resources to meet those criteria within the twelve month period following the receipt of the Cycle IV Notice of Award.

In addition to Rate Review and Required Rate Reporting activities, the Cycle IV grants offered greater support for one of the fund purposes outlined in Section 2794(c) – the establishment of Data Centers. The Cycle III grant provided states with funds to establish or enhance Data Centers. The Cycle IV grants provided funds to states to create or enhance Data Centers to ensure greater public access to medical pricing data.

In Cycle IV, the project period and funding awarded to each recipient was conditional upon funding availability. As a result, all applicants were required to submit a mandatory Letter of Intent. CMS used this information to determine the amount of funding available to each recipient. The Cycle IV awards are multi-year grants, with periods of performance continuing through Federal Fiscal Year (FFY) 2016.

States that applied for funds were required to complete the grant application. States that were awarded funds under this funding opportunity were required to provide the Secretary with rate review data, four quarterly reports, and one annual report per year until the end of the grant period detailing the state's progression towards a more comprehensive and effective rate review process. A final report is due at the end of the grant period.

Cycle IV of the Rate Review Grant Program was awarded on September 19, 2014. CMS awarded \$24.7 million to twenty-one states.

#### Effective Rate Review Program

Section 1003 of the Affordable Care Act adds a new section 2794 of the PHS Act which directs the Secretary, in conjunction with the states, to establish a process for the annual review of "unreasonable increases in premiums for health insurance coverage." The statute provides that health insurance issuers must submit to the Secretary and the applicable state justifications for unreasonable premium increases prior to the implementation of the increases. Section 2794 also specifies that beginning with plan years beginning in 2014, the Secretary, in conjunction with the

states, shall monitor premium increases of health insurance coverage offered through an Exchange and outside of an Exchange.

On May 23, 2011, CMS published a final rule with comment period (76 FR 29964) to implement the annual review of unreasonable increases in premiums for health insurance coverage called for by section 2794. The regulation established a rate review program to ensure that all rate increases that meet or exceed an established threshold are reviewed by a state or CMS to determine whether the rate increases are unreasonable. Under the regulation, if CMS determines that a state has an Effective Rate Review Program in a given market, using the criteria set forth in the rule, CMS will adopt that state's determinations regarding whether rate increases in that market are unreasonable, provided that the state reports its final determinations to CMS and explains the bases of its determinations.

The final rule "Patient Protection and Affordable Care Act; Health Insurance Market Rules; Rate Review" (78 FR 13406, February 27, 2013) amends the standards under the rate review program. The amendments revise the timeline for states to propose state-specific thresholds for review and approval by CMS. The amendments also modified criteria and factors for states to have an Effective Rate Review Program. These changes were necessary to reflect the new market reform provisions discussed above and to fulfill the statutory requirement beginning in 2014 that the Secretary, in conjunction with the states, monitor premium increases of health insurance coverage offered through an Exchange and outside of an Exchange.

CMS released another final rule, "Final HHS Notice of Benefit and Payment Parameters" ("2016 Payment Notice") (81 FR 12203, March 8, 2016)<sup>1</sup>. Section 154.215(a)(1) was amended to require health insurance issuers to submit the Unified Rate Review Template (also known as Part I of the Rate Filing Justification) for all single risk pool coverage in the individual or small group (or merged) market, regardless of whether any plan within a product is subject to a rate increase.

CMS is authorized under 45 CFR § 154.301(d) to evaluate whether, and to what extent, a state's circumstances have changed such that it has begun to or has ceased to satisfy the Effective Rate Review Program criteria. In the 2016 Payment Notice CMS clarified that making rate information available to the public at a uniform time (rather than a rolling basis) is one of the criteria for determining whether a State has an Effective Rate Review program. We also released a Bulletin with the 2016 Payment Notice. The Bulletin establishes a Uniform Timeline for Submission and Posting<sup>2</sup>.

CMS relies on publicly-available information, calls with individual states, and an annual questionnaire to obtain the information needed to evaluate whether a state has begun to or continues to satisfy the Effective Rate Review Program criteria. CMS is proposing to collect information in writing from all states by distributing a revised questionnaire. Using this information collection instrument makes the process more efficient and effective for states, while providing CMS with more detailed information.

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1 <https://www.gpo.gov/fdsys/pkg/FR-2016-03-08/pdf/2016-04439.pdf>

2 <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Final-rate-filing-justification-bulletin-2-29-16.pdf>

## 2. Purpose and Use of Information Collection

### Cycle IV Process

The data collection was used by HHS to request that states submit the following:

- An application to apply for the Cycle IV Rate Review Grants. Guidance requirements for the application are provided in the Funding Opportunity Announcement, beginning in Section IV, entitled “Application and Submission Information.”
- Four quarterly reports per year to the Secretary detailing the state’s enhancements of their rate review programs or Data Centers. Data elements have been adjusted in order to enhance reporting on Data Center activities.
- Rate review transaction data collected by the state.
- One annual report.
- One final report at the end of the grant.

This information assisted HHS in planning for and executing grants to states for Rate Review and Data Center activities. In addition, reporting of information by grant awardees ensures that grant awardees report and share data with the Secretary as required by the statute.

### Effective Rate Review Program

HHS will use the information provided by States to determine whether the State has an Effective Rate Review Program. See the Effective Rate Review Determination and Status Questions for details regarding information to be collected.

## 3. Use of Improved Information Technology and Burden Reduction

### Rate Review Grants Program

All information collected in the grant application was submitted electronically via grants.gov. HHS staff analyzed the data electronically and communicated with states and territories using email and phone.

All state reports were submitted electronically. For submission of transaction data records, the awardees were provided with a structured Excel worksheet or the data was transmitted directly from the NAIC. A web-based interface was provided to support ease of report and data submission during the award period. All reports (quarterly, annual and final) were submitted electronically.

### Effective Rate Review Program

States will respond to the questionnaire via the Health Insurance Oversight System (HIOS)—a web-based data collection system states already use to provide information for the healthcare.gov website (additional PRA-related information regarding HIOS is provided in the Web Portal PRA package (0938-1086)). All submissions will be made electronically and no paper submissions are required. The burden estimates provided in this statement include the time and effort that will be dedicated to uploading information in HIOS.

## 4. Duplication of Similar Information

There is no duplication of information requirements in any other collection.

**5. Impact on Small Businesses or Other Small Entities**

Small businesses are not affected by these ICRs.

**6. Less Frequent Collection**

Cycle IV Grant Application

Information collected in the grant application was a one-time data collection for the purpose of determining eligibility to receive a grant award. As this grant is a multi-year award, collection at a frequency less than quarterly report, such as annual reports only, would put the Federal grant funding at risk due to lack of oversight.

States submit all reports electronically. For submission of transaction data records, the awardees are provided with a structured Excel worksheet or the data will be transmitted directly from the NAIC. A web based interface is used to support ease of report and data submission during the award period.

Effective Rate Review Program

CMS reviews the responses to the survey to make an annual determination of whether a state has an Effective Rate Review Program. Therefore, states must provide the information annually to CMS in order for CMS to make the determination prior to the date when proposed rate filings are due for that year.

**7. Special Circumstances**

No special circumstances exist for this information collection.

**8. Federal Register Notice/Outside Consultation**

A Federal Register Notice will publish on XXXXXXXX, providing the public with a 60-day period to submit written comments on the information collection requirements contained in this notice.

**9. Payment/Gift to Respondents**

There will be no payments or gifts to respondents.

**10. Confidentiality**

No personal health information will be collected. All information will be kept private to the extent allowed by applicable laws/regulations. CMS makes available to the public on its website a list of states that are determined to have an Effective Rate Review Program.

**11. Sensitive Questions**

No sensitive information will be collected.

**12. Estimates of Annualized Burden Hours (Total Hours & Wages)**

## WAGE DATA INFORMATION

### **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](http://www.bls.gov/oes/current/oes_nat.htm)). In this regard, the following table presents the mean hourly wage, the cost of fringe benefits (calculated at 100 percent of salary), and the adjusted hourly wage.

Occupation Title	Occupation Code	Mean Hourly Wage	Fringe Benefit	Adjusted Hourly Wage
Actuary	15-2011	\$51.00	\$51.00	\$102.00
Administrative Assistant	43-6014	\$16.59	\$16.59	\$33.18

As indicated, we are adjusting our employee hourly wage estimates by a factor of 100 percent. This is necessarily a rough adjustment, both because fringe benefits and overhead costs vary significantly from employer to employer, and because methods of estimating these costs vary widely from study to study. Nonetheless, there is no practical alternative and we believe that doubling the hourly wage to estimate total cost is a reasonably accurate estimation method.

### Grants to States for Rate Review

The Cycle IV funding opportunity provided states with the opportunity to apply for funding to create or enhance Data Centers to ensure greater public access to medical pricing data. Prior to submitting an application, applicants were required to submit a Letter of Intent via email.

Once grant funds were awarded, recipients are required to provide the Secretary with quarterly reports 30 days after the quarter has ended for the entire duration of the grant. The quarterly report allows awardees to update HHS with the progression towards establishing or enhancing Rate Review or Data Center activities. The report narrative asks for significant events towards the goal, in addition to any barriers experienced and plans for rectifying any setbacks. In addition, the report asks for data components to track the progression of rate review within a state and an updated budget, work plan and time line, as well as collection of rate review and pricing data.

In addition, each grantee must provide HHS with an annual report. This report does not contain data, but instead documents the progress toward establishing or enhancing an Effective Rate Review Program and/or a Data Center. Finally, HHS requires a final report at the end of the grant period. Similarly, this report does not contain data, but instead documents the progress toward establishing or enhancing an Effective Rate Review Program and/or a Data Center.

### **Cycle IV Application Process**

In order to complete the Cycle IV application, each applicant read the application requirements, assembled, reviewed, finalized and submitted an application package to HHS. This burden estimate encompasses the entire application process which includes assembly of all required application content

(technical approach, cost proposal, application format, extraction and summarization of current activities if applicable), certification of the application package by a senior official at the state or Delegated Entity, application submission to HHS and any subsequent application amendments or corrections that may be necessary for application approval. The final application was submitted electronically via grants.gov using the directions furnished in the application by HHS.

We estimated that it would take approximately 160 hours per applicant to read, assemble, review, finalize and submit their application proposal package to HHS.

We estimated that up to 42 respondents may submit an application, which is higher than the number of respondents from Cycle II (34) and Cycle III (21).

**12G. Estimated Annualized Burden Table - Application**

Forms (If necessary)	Type of Respondent	Number of Respondents	Number of Responses per Respondent	Average Burden hours per Response	Total Burden Hours
Grant Application	State Government	42	1	159	6,678
<b>Total</b>				<b>159</b>	<b>6,678</b>

**12H. Estimated Annual Cost - Application Submission**

Type of respondent	Number of Respondents	Number of Responses per Respondent	Average Burden Hours	Wage per Hour	Burden Costs Per Annualized Response
Supervisor DOI Staff Review –GS 14, Step 1	42	1	52.5	\$40.58	\$2,130
DOI Staff Report Writing—GS 13, Step 4	42	1	106.5	\$37.78	\$4,024
<b>Total</b>			<b>159</b>		<b>\$6,154</b>

**12I. Estimated Annualized Burden Hours - Reporting**

Forms	Type of Respondent	Number of Respondents	Number of Responses per Respondent	Estimated Burden hours per Response	Total Estimated Burden Hours
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**12J. Estimated Annual Cost - Reporting**

Quarterly Report Type of respondent Transaction	State Number of Respondents	Number of Responses per Respondent	Average Burden Hours	Wage per Hour	Burden Costs Per Response	Annualized Response
Data Collection	Government		42	5	208	4,368
Annual Report Supervisor Staff Review - GS 14, Step 1 Final Report	State Government	42	10	1	40	1,680
	State Government		42	6,235 1 (not annual; end of grant)	\$40.58	\$253,016
DOI Staff Report Writing —GS 13, Step 4	42	10	10 per year (4 quarterly reports, 5 data submissions;	\$37.78		\$471,079
<b>Total</b>			<b>18,704</b>			<b>\$724,095</b>
Through application and reporting, Cycle IV will require 18,661 annual hours and \$730,249 in annual labor costs.			<b>11 total</b>			

**Effective Rate Review Program**

Currently, 46 states and the District of Columbia have Effective Rate Review Programs. We assume that these states will want to maintain their effective status and submit the requested information. We will also request responses from the other four states in which CMS enforces federal requirements. Therefore, we estimate that there will be 51 respondents annually for this ICR.

We estimate that it will take 2 hours by an actuary (with a labor cost of \$102 per hour) and 3 hours by administrative support staff (with a labor cost of \$33.18 per hour) to collect all information, prepare responses, upload the information in HIOS and respond to any subsequent inquiries. The burden per respondent is estimated to be 5 hours and the cost per respondent is estimated to be \$303.54. The total burden for all 51 respondents is estimated to be 255 hours and the total cost for all responses is estimated to be \$15,480.54. We expect the burden to be lower for respondents that completed the last questionnaire because those respondents will only need to revise their responses to reflect any changes in policy and experience.

**12K. Estimated Annualized Burden Hours and Costs**

Number of Respondents	Number of Submissions per Respondent	Total Number of Submissions	Burden Hours per Respondent	Total Burden Hours	Cost per Respondent	Total Cost
51	1	51	5	255	\$303.54	\$15,480.54

**13. Total Annual Cost Burden to Record Keepers /Capital Costs**

There are no additional record keeping/capital costs.

**14. Annualized Cost to Federal Government**

Grants to States for Rate Review

Grant awards for Cycle IV awardees were estimated to be: \$40.3 million.

Total government program staffing costs include two GS-13 and one GS-9 with a break down as follows to intake and track applications, provide technical assistance with applicants, review and process applications, intake and review quarterly, annual and final reports and data analysis for an estimated 94 awardees.

GS-13: Full-time (Salary with local cost adjustment: \$89,924)	Annual cost:	\$89,924
GS-13: Full-time (Salary with local cost adjustment: \$89,924)	Annual cost:	\$89,924
GS -9: Full-time (Salary with local cost adjustment: \$52,146)	Annual cost:	\$52,146
	<b>Total:</b>	<b>\$231,994</b>

Effective Rate Review Program

Total cost to the Federal Government is estimated to be \$6,811.56. This includes 3 hours spent by a GS-13 staff to review information submitted by states to make Effective Rate Review Program determinations and conduct rate monitoring.

<b>Number of Hours per Response</b>	<b>Labor Cost per Hour</b>	<b>Total Number of Submissions</b>	<b>Cost per Response</b>	<b>Total Cost</b>
3	\$44.52	51	\$133.56	\$6811.56

**15. Explanation for Program Changes or Adjustments**

We estimated that the one-time burden related to Cycle IV grant applications and reporting was 18,863 hours. The burden related to the Effective Rate Review Program is estimated to be 255 hours or \$15,480.54 annually. The burden was updated to reflect receipt of information from all 50 states and the District of Columbia. We expect some reduction of burden for states that completed the questionnaire in the past, but the reduction is not significant because states will have to update their information based on more recent data.

**16. Publication and Schedule**

CMS makes available to the public on its website a list of states that are determined to have an Effective Rate Review Program.

**17. Expiration Date**

HHS has no objections to displaying the expiration date.