

Supporting Statement for Information Collection Requirements for Non-Exchange Entities

A. Background

The Patient Protection and Affordable Care Act, Public Law 111-148, enacted on March 23, 2010, and the Health Care and Education Reconciliation Act, Public Law 111-152, enacted on March 30, 2010 (collectively, “Affordable Care Act”), expand access to health insurance for individuals and employees of small businesses through the establishment of new Affordable Insurance Exchanges (Exchanges), also called Marketplaces, including the Small Business Health Options Program (SHOP). The Exchanges, which became operational on January 1, 2014, enhance competition in the health insurance market, expand access to affordable health insurance for millions of Americans, and provide consumers with a place to easily compare and shop for health insurance coverage.

This Information Collection Request (ICR) serves as the formal request for a new data collection clearance associated with the HHS Notice of Benefit and Payment Parameters for 2018 Proposed Rule (2018 Payment Notice). This ICR includes ICRs related to the ability of states to permit agents and brokers to assist qualified individuals, qualified employers, or qualified employees enrolling in Qualified Health Plans in the Federally Facilitated Exchange (§155.220) and ICRs related to non-exchange entities (§155.260).

B. Justification

1. Need and Legal Basis

Section 1312(e) of the Affordable Care Act directs the Secretary to establish procedures under which a State may permit agents and brokers to enroll qualified individuals and qualified employers in QHPs through an Exchange, and to assist individuals in applying for advance payments of the premium tax credit and cost-sharing reductions.

2. Information Users

The data collection will assist HHS in monitoring Web-brokers for compliance with Federal Web-broker standards.

3. Use of Information Technology

HHS anticipates that a majority of the systems, notices, and information collection required will be automated. A majority of the information that is required by the collection of information will be submitted electronically. HHS staff will analyze or review the data in the same manner by which it was submitted and communicate with States, health insurance issuers, and other entities using e-mail, telephone, or other electronic means.

4. Duplication of Efforts

This information collection does not duplicate any other Federal effort.

5. Small Businesses

This information collection will not have a significant impact on small business.

6. Less Frequent Collection

If information is collected on a less frequent basis, the enrollment for qualified individuals and providers will be affected.

7. Special Circumstances

There are no special circumstances.

8. Federal Register/Outside Consultation

The proposed rule HHS Notice of Benefit and Payment Parameters for 2018 will be published providing the public with a 60-day period to submit written comments on the ICRs included with the rule.

9. Payments/Gifts to Respondents

No payments and/or gifts will be provided to respondents.

10. Confidentiality

To the extent of the applicable law and HHS policies, we will maintain respondent privacy with respect to the information collected. Nothing in the information collection should be interpreted as preventing a State from being allowed to disclose its own data.

11. Sensitive Questions

There are no sensitive questions included in this information collection effort.

12. Burden Estimates (Hours & Wages)

The following sections of this document contain estimates of burden imposed by the associated information collection requirements (ICRs); however, not all of these estimates are subject to the ICRs under the PRA for the reasons noted. Salaries for the positions cited were mainly taken from the Bureau of Labor Statistics (BLS) web site (<http://www.bls.gov/ooh/>).

ICRs Related to the Ability of States to Permit Agents and Brokers to Assist Qualified Individuals, Qualified Employers, or Qualified Employees Enrolling in Qualified Health Plans

in the Federally-facilitated Exchange (§155.220)

45 CFR 155.220(c)(3)(i-vii) describes requirements for internet web sites operated by web-brokers in states in which an FFE is operating. To confirm compliance with these requirements, HHS will require both prospective and operational web-brokers to submit business information to track a web-broker’s Agreement status, registration and training completion, state licensure, and general profile and operational data (including documentation of enrollment process and workflow, and privacy and security processes). The data elements necessary for web-brokers to complete the data collection include basic contact information such as business name, address, phone number, corporate National Producer Number, email address, and web site uniform resource locator (URL). Web-brokers will also be required to submit privacy and security policies and procedures regarding the handling and collection of personally identifiable information in accordance with the web-broker Agreement and attestations of appropriate training for employees and third-party agents or brokers. In order for HHS to monitor compliance, web-brokers will also be required to provide web site enrollment workflows, access to their direct enrollment testing environment(s) via testing credentials, and other documentation as requested in response to emerging compliance issues.

We estimate that it will take up to five hours at an hourly cost of \$70.66 for a business operations specialist to review and update the annual data collection tool. Based on current year-to-date participation and potential market size, we project that 113 web-brokers will participate. We estimate that this data collection has an annual burden of approximately \$39,922.90.

Labor Category	Number of Respondents	Hourly Labor Costs (Hourly rate + 100% Fringe benefits)	Burden Hours	Total Burden Costs (per Respondent)	Total Burden Costs (All Respondents)
Business Operations Specialist	1	\$70.66 ¹	5	\$353.30	
Total			5	\$353.30	\$39,922.90

We estimate that it will take up to one hour at an hourly cost of \$70.66 for a business operations specialist to provide periodic updates for a total cost of approximately \$70.66 per web-broker. Assuming that 20% of the web-broker population will experience either changes to their enrollment process and workflow or privacy and security processes outside of the annual data collection period, we estimate that 20 web-brokers will need to provide periodic updates, increasing the annual burden estimate to approximately \$1,413.20.

¹ Bureau of Labor Statistics. Business Operations Specialists. <http://www.bls.gov/oes/current/oes131199.htm>

Labor Category	Number of Respondents	Hourly Labor Costs (Hourly rate + 100% Fringe benefits)	Burden Hours	Total Burden Costs (per Respondent)	Total Burden Costs (All Respondents)
Business Operations Specialist	1	\$70.66	1	\$70.66	
Total			1	\$70.66	\$1,413.20

Section 155.220(c)(4) requires a web-broker to comply with several standards when the web-broker permits other agents and brokers to use its web site to enroll a consumer through the FFE, pursuant to a contractual or other arrangement between the web-broker and the other agent or broker. One of the standards requires the web-broker to provide to the FFE a list of agents or brokers who enter into such an arrangement, if requested by HHS. We understand that web-brokers who work with other agents and brokers typically obtain and manage information on each of its agents or brokers as part of an agent onboarding process. As a result, web-brokers already have the necessary data to list each of their agents or brokers that it contracts with under such arrangements. We estimate that it will take up to 48 hours at an hourly cost of \$76.48 for a computer programmer to perform the necessary programming, and 4 hours at an hourly cost of \$118.44 for a senior manager to develop a listing of affiliated third-party agents and brokers, \$4,144.80 per web-broker. Assuming that approximately 100 web-brokers elect to access the FFE's application programming interface and that each allows third-party agents to access their web sites, we estimate that this provision would increase the annual burden estimate to \$414,480.

Labor Category	Number of Respondents	Hourly Labor Costs (Hourly rate + 100% Fringe benefits)	Burden Hours	Total Burden Costs (per Respondent)	Total Burden Costs (All Respondents)
Computer Programmer	1	\$76.48 ²	48	\$3,671.04	
Senior Manager	1	\$118.44 ³	4	\$473.76	
Total			52	\$4,144.80	\$414,480

45 CFR 155.220(d) states that agents and brokers who enroll qualified individuals in a QHP in a manner that constitutes enrollment through the Exchange (including the FFEs), or assist individuals in applying for advance payments of the premium tax credit and cost-sharing reductions for QHPs, must comply with the terms of an agreement between the agent or broker

² Bureau of Labor Statistics. Computer Programmer. <http://www.bls.gov/ooh/computer-and-information-technology/computer-programmers.htm>.

³ Office of Personnel Management. Senior-Level Professional. <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/16Tables/exec/html/SLST.aspx>.

and the Exchange. The terms of that agreement must include training in the range of QHP options and insurance affordability programs, as well as registration. HHS requires annual online training for agents and brokers who enroll individuals through the FFEs, and also offers optional educational outreach. The burden statement for training and registration is available at OMB-0938-1204. In order to create more effective training and outreach for agents and brokers, and improve the process by which agents and brokers may assist consumers enrolling in QHPs in the FFEs, HHS requests optional feedback from agents and brokers regarding their experience.

Section 155.220(g) authorizes HHS to terminate an agent’s or broker’s agreement with FFEs if HHS determines that the agent or broker is out of compliance with the standards outlined in 155.220. Additionally, when a web-broker permits other agents and brokers to use its Internet web site to enroll individuals in an FFE, it must comply with the standards established in §155.220(c)(4). The data elements for §155.220 can be seen in Appendix A to this supporting statement. Section 155.220(k)(1) imposes a penalty of denial of right to enter into a future agreements with the FFEs in future years for failure to comply with the requirements of §155.220. Section 155.220(g)(5) sets forth the process whereby an agent or broker can request reconsideration of HHS’s suspension, and §155.220(h) describes the process for reconsideration of HHS’s termination or denial of right to enter into future agreements with the FFEs. Specifically, the agent or broker would be required to submit the request for reconsideration within 30 calendar days of receipt of the date of the notice of termination. Section 155.220(k)(2) gives HHS the authority to impose a civil money penalty on agents and brokers as described at §155.285; ICRs proposed in this provision are exempt from PRA requirements in accordance with 5 CFR 1320.4(a)(2) because this information would be collected during the conduct of an administrative action or investigation involving an agency against specific individuals or entities.

The burden estimates for the reporting requirements in §155.220 reflect our assumption that there will be 100,000 agents and brokers registered in the FFEs. This number is based on the number of agents and brokers who have registered in previous years.

For purposes of this burden estimate, we assume that 750 agents and brokers will respond to our request for feedback. We assume that it will take 0.17 burden hours to write the feedback and electronically send it to HHS. Each agent’s or broker’s wage is an estimated \$40.98 per hour, for a total burden cost of \$6.97 per agent or broker. Therefore, we estimate an aggregate burden of 127.50 hours at a total burden cost of \$5,224.95 for the 750 agents and brokers.

Labor Category	Number of Respondents	Hourly Labor Costs (Hourly rate + 100% Fringe benefits)	Burden Hours	Total Burden Costs (per Respondent)	Total Burden Costs (All Respondents)
Agent or Broker	750	\$40.98 ⁴	0.17	\$6.97	\$5,224.95

For purposes of this burden estimate, we assume that 45 agents or brokers will receive a notice of immediate suspension, or 30-day notice of intent to terminate or denial of right to enter into an agreement with the FFE in future years, or an immediate termination notice. We assume that 40 agents and brokers will respond to the original notice prior to the implementation of the termination action or other penalty. We assume that 40 agents and brokers will be terminated or be subject to other penalty, and all 40 of those agents will request reconsideration.

Section 155.220(g)(3), and the §155.260(b) agreements between HHS and registered agents and brokers, describe the notice of intent to terminate that HHS issues to an agent or broker prior to terminating for cause. An agent or broker who receives this notice has 30 days to submit mitigating facts or circumstances to contest the termination, or otherwise resolve the issue. Similarly, §155.220(g)(5)(i)(B) states that the agent or broker may submit evidence to rebut the allegation of fraud or abuse during the 90-day suspension. We estimate that termination notices will be sent to 40 agents or brokers each year. The hour burden associated with this action is the time and effort needed by the agent or broker to gather the necessary background information, create the written response to the notice, and submit it by mail and electronically to HHS. The hours involved may vary. We assume that it will take 10 hours. Each agent’s or broker’s wage is an estimated \$40.98 per hour, for a total burden cost of \$409.80 per agent or broker. Therefore, we estimate an aggregate burden of 400 hours at a total burden cost of \$16,392 for the 40 agents and brokers.

Labor Category	Number of Respondents	Hourly Labor Costs (Hourly rate + 100% Fringe benefits)	Burden Hours	Total Burden Costs (per Respondent)	Total Burden Costs (All Respondents)
Agent or Broker	40	\$40.98	10	\$409.80	\$16,392

As stated in §155.220(h) and §155.220(k)(2), an agent or broker would be required to submit a request for reconsideration of any termination or penalty decision by HHS within 30 calendar days of notification of the decision.

We assume that all agents and brokers who receive a notice of termination or penalty decision by HHS will submit a request for reconsideration. We expect the request to address the issues presented in the notice. The hours involved in preparing and submitting this request may vary. For the purpose of this burden estimate, we estimate that it will take 10 hours for an agent

⁴ Bureau of Labor Statistics. Financial Clerks. <http://www.bls.gov/ooh/office-and-administrative-support/financial-clerks.htm>. Insurance Sales Agents. <http://www.bls.gov/ooh/sales/insurance-sales-agents.htm>. The hourly labor costs is calculated by taking the average of the financial clerks and insurance sales agents hourly wage.

or broker to prepare and submit this request. Steps include gathering and assembling necessary background materials, preparing the written request, and submitting it by mail and electronically. Each agent's or broker's wage is an estimated \$40.98 per hour, for a total burden cost of \$409.80 per agent or broker. Therefore, we estimate an aggregate burden of 400 hours at a total burden cost of \$16,392 for the 40 agents and brokers.

Labor Category	Number of Respondents	Hourly Labor Costs (Hourly rate + 100% Fringe benefits)	Burden Hours	Total Burden Costs (per Respondent)	Total Burden Costs (All Respondents)
Agent or Broker	40	\$40.98	10	\$409.80	\$16,392

ICRs Related to Non-Exchange Entities: Privacy and Security Policies and Procedures (\$155.260(b))

Various types of non-Exchange entities will assist consumers as they enroll in coverage in the FFEs, including State Partnership Marketplaces. These entities include agents, brokers, certified application counselors, Navigators, and other in-person assistors, all of which will need to enter into privacy and security agreements with the FFE, pursuant to 45 CFR 155.260(b). The agreements require these entities to implement privacy and security policies and procedures, which include developing training and awareness programs, implementing breach and incident handling procedures, creating a privacy disclosure statement, maintaining accounting of disclosures, and obtaining informed consent from individuals for any use or disclosure that is not permissible within the scope of the privacy notice statement or any relevant agreements.

Navigators

This ICR was originally approved in 2013 and consisted of meeting initial requirements and developing policies and procedures. For this approval, Navigator Project Managers and Senior Executives will continue with maintenance efforts only of the previously established policies and procedures. The estimated total burden will be 1 hour per Project Manager and 0.75 hours per Senior Executive. Each Navigator Project Manager's wage is an estimated \$82.80 per hour for a total burden cost of \$82.80 per each Navigator Project Manager. We estimate there will be 102 Navigator Project Managers, for a total of \$8,445.60. Each Navigator Senior Executive's wage is an estimated \$98.74 per hour, for a total burden cost of \$74.05 per each Senior Executive. We estimate there will be 102 Navigator Senior Executives, for a total of \$7,553.61. We expect the number of Navigator Project Managers and Senior Executives to continue to change over time as the number of Navigator grantees is not likely to remain constant from one grant cycle to the next.

Labor Category	Number of Respondents	Hourly Labor Costs (Hourly rate + 100% Fringe benefits)	Burden Hours	Total Burden Costs (per Respondent)	Total Burden Costs (All Respondents)
Navigator Project Manager	102	\$82.80 ⁵	1	\$82.80	\$8,445.60
Navigator Senior Executive	102	\$98.74 ⁶	0.75	\$74.05	\$7,553.61

Certified Application Counselors

Health Policy Analysts and CAC Senior Managers at certified application counselor (CAC) organizations will be responsible to continue the maintenance efforts of the previously established policies and procedures outlined above. Health Policy Analysts will handle the initial breach and follow the set procedures (entailing more time associated with the task). Each analyst's wage is an estimated \$73.10 with an estimated total burden of 1 hour per analyst. The total burden cost per analyst is \$73.10. With an estimate of 3,000 Health Policy Analysts, the annual total burden cost is \$219,300. CAC Senior Managers will ensure the protocol is executed and adapt the policies accordingly (requiring the necessary oversight). Each senior manager's wage is an estimated \$118.44 with an estimated total burden of 0.75 hour per manager. The total burden cost per manager is \$88.83. With an estimate of 3,000 CAC Senior Managers, the annual total burden cost is \$266,490.

Labor Category	Number of Respondents	Hourly Labor Costs (Hourly rate + 100% Fringe benefits)	Burden Hours	Total Burden Costs (per Respondent)	Total Burden Costs (All Respondents)
Health Policy Analysts	3,000	\$73.10	1	\$73.10	\$219,300
CAC Senior Manager	3,000	\$118.44	0.75	\$88.83	\$266,490

Agents and Brokers

The burden on licensed agents and brokers for 2017 and beyond to develop and adhere to the policies and procedures outlined above will be an estimated 5 hours. Each agent or broker's wage is an estimated \$40.98 per hour, for a total burden cost of \$204.90 per agent or broker. We estimate there will be 100,000 agents and brokers, for an annual total burden

⁵ Bureau of Labor Statistics. Administrative Services Managers. <http://www.bls.gov/ooh/management/administrative-services-managers.htm>

⁶ Bureau of Labor Statistics. Top Executives. <http://www.bls.gov/ooh/management/top-executives.htm>

cost of \$20,490,000 for all agents and brokers.

Labor Category	Number of Respondents	Hourly Labor Costs (Hourly rate + 100% Fringe benefits)	Burden Hours	Total Burden Costs (per Respondent)	Total Burden Costs (All Respondents)
Agent or broker	100,000	\$40.98	5	\$204.90	\$20,490,000

ICR Regarding Differential Display of Standardized Options on the Web Sites of Agents and Brokers (\$155.220) and QHP Issuers (\$156.265)

We propose to require web-brokers and QHP issuers that utilize the direct enrollment pathway to differentially display standardized options in the 2018 plan year and beyond, consistent with the approach adopted by HHS for display on the Exchange Web site, unless HHS approved a deviation. This policy would require direct enrollment entities to prominently display standardized options in a manner that makes them clear to consumers. We estimate that a total of 160 web-brokers and QHP issuers participate in the FFEs and SBE-FPs and would be required to comply with the standard. We estimate it would take a mid-level software developer (at a rate of \$96.82 per hour) approximately 2 hours annually to develop a differential display for standardized options. We estimate an annual cost burden of approximately \$193.64 per direct enrollment entity. The total annual burden will be 320 hours with an equivalent cost of approximately \$30,982.40.

We anticipate that fewer than 10 web-brokers and issuers would submit a request to deviate from the manner adopted by HHS for display on HealthCare.gov. Under 5 CFR 1320.3(c)(4), this ICR is not subject to the PRA as it would affect fewer than 10 entities in a 12-month period.

Labor Category	Number of Respondents	Hourly Labor Costs (Hourly rate + 100% Fringe benefits)	Burden Hours	Total Burden Costs (per Respondent)	Total Burden Costs (All Respondents)
Software Developer	160	\$96.82	2	\$193.64	\$30,982

13. Capital Costs

There are no anticipated capital costs associated with these information collections.

14. Cost to Federal Government

The burden to the Federal government for the continuing the established systems and policies associated with this information collection is \$37,776.62. The calculations for CCIIO employees' hourly salary was obtained from the OPM website: https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2016/DCB_h.pdf

Table 1 – Administrative Burden Costs for the Federal Government Associated with the Program Integrity and Additional State Collections

Task	Estimated Cost
Technical Assistance to States	
15 GS-13: 15 x \$44.15 x 50 hours	\$33,112.50
Managerial Review and Oversight	
2 GS-15: 2 x \$61.37 x 38 hours	\$4,664.12
Total Costs to Government	\$37,776.62

15. Changes to Burden

There are no changes to the burden. This is a new data collection.

16. Publication/Tabulation Dates

There are no plans to publish the outcome of the data collection.

17. Expiration Date

The expiration date will be displayed on each instrument.