Supporting Statement for Essential Community Provider Data Collection to Support QHP Certification for PYs 2021-2023 (OMB Control Number 0938 -1295)

A. Background

In accordance with section 1311(c)(1)(C) of the Affordable Care Act (ACA), Qualified Health Plan (QHP) issuers, including Stand-alone Dental Plan (SADP) issuers, are required to include within their provider network a sufficient number and geographic distribution of essential community providers (ECPs), where available, that serve predominantly low-income, medically-underserved individuals. Under this same section of the ACA, the Secretary of the Department of Health and Human Services (HHS) is charged with establishing criteria for certification of health plans as QHPs, including criteria for issuer satisfaction of the ECP inclusion requirement. Under 45 Code of Federal Regulations (CFR) 156.235, the Secretary of HHS has established criteria for inclusion of a sufficient number and geographic distribution of ECPs, where available, in an issuer's network to ensure reasonable and timely access to a broad range of such providers for low-income, medically underserved individuals in their service areas. To satisfy this ECP requirement, QHP and SADP issuers must submit an ECP template as part of their QHP application, in which they must list the ECPs with whom they have contracted to provide health care services to low-income, medically underserved individuals in their service areas.

HHS has compiled a non-exhaustive list of available ECPs, based on data it and other Federal partners maintain, which has been used as an initial source of ECP information. Providers included on the final CMS ECP list for the plan year 2019 reflect those providers who submitted an online ECP petition to correct or update their provider data between December 9, 2015, and December 22, 2017, and were approved by CMS for inclusion on the ECP list through the ECP petition review process. The non-exhaustive HHS ECP list for the 2019 benefit year is available at https://www.qhpcertification.cms.gov/s/ECP%20and%20Network%20Adequacy. HHS updates this ECP list annually to assist issuers with identifying providers that qualify for inclusion in an issuer's plan network toward satisfaction of the ECP standard under 45 CFR 156.235. Under that regulation, ECPs are defined as health care providers who serve predominantly low-income, medically underserved individuals. They include health care providers defined in section 340B(a)(4) of the Public Health Service (PHS) Act and described in section 1927(c)(1)(D)(i)(IV) of the Social Security Act (SSA).

The HHS ECP list for the 2019 benefit year contains the following provider types:

- Federally Qualified Health Centers (FQHCs) and FQHC look-alikes
- Health centers providing dental services
- Hospitals: Critical Access Hospitals, Rural Referral Centers, Disproportionate Share (DSH), DSH-eligible Hospitals, Children's Hospitals, Sole Community Hospitals, Freestanding Cancer Centers.
- Indian health care providers, which include providers participating in programs operated by 1) the Indian Health Service; 2) a Tribe or Tribal organization under the authority of the Indian Self-Determination and Education Assistance Act; and 3) an urban Indian organization under the authority of Title V of the Indian Health Care Improvement Act

- Ryan White HIV/AIDS Program providers
- Family planning providers receiving Federal funding under Title X of the PHS Act and not-for-profit or governmental family planning service sites that do not receive Federal funding under Title X of the PHS Act or other 340B-qualifying funding
- Other providers that serve predominantly low-income, medically underserved individuals, including Black Lung Clinics, Community Mental Health Centers, Hemophilia Treatment Centers, Rural Health Clinics, Sexually Transmitted Disease Clinics, Tuberculosis Clinics

B. Justification

1. <u>Need and legal basis</u>

Provider Information Collection

Standards for ECP requirements are codified at 45 CFR 156.235. Issuers must contract with at least 20 percent of the available ECPs in the plan's service area. Currently, issuers rely on the non-exhaustive HHS list of available ECPs to identify qualified ECPs that can be counted toward an issuer's satisfaction of the 20 percent ECP standard, along with qualified ECPs that an issuer writes in on their ECP template as part of their QHP application. Because an issuer's ECP write-ins count toward satisfaction of the ECP standard for only the issuer that writes in the ECP on their ECP template, this methodology for calculating the available ECPs has resulted in a variation of the available identified ECPs for a given service area based on the number of ECP write-ins a specific issuer includes on their ECP template.

To ensure that the HHS ECP list more accurately reflects the universe of qualified available ECPs in a given service area, HHS will continue to collect more complete data from such providers so that all issuers are held to a more uniform ECP standard. HHS aims to achieve this outcome by soliciting qualified ECPs to complete and submit the ECP provider petition in order to be added to the HHS ECP list or update required data fields to remain on the list, resulting in a more robust and accurate listing of the universe of available ECPs from which issuers select to satisfy the 20 percent ECP standard. Provider participation in this data collection effort through the ECP provider petition will continue to support HHS's policy for counting issuers' ECP write-ins toward satisfaction of the ECP standard.

In order to most effectively achieve the ECP operational improvements described above, HHS will continue to collect such data directly from providers through the online ECP provider petition (see Appendix A). HHS will not be accepting petitions from third-party entities on behalf of the provider. Third-party entities include issuers, advocacy groups, State departments of health, State-based provider associations, and providers other than the provider that is the subject of the petition. However, if one of the above entities owns or is the authorized legal representative of an ECP, it may submit a petition on behalf of a provider. For example, a local health department that operates its own family planning clinics may appropriately petition for those clinics.

Collection of the data directly from such providers will continue to ensure the integrity of the

data to support issuers as they apply for QHP certification and recertification, build a more robust HHS ECP listing of the universe of available ECPs, and support HHS's QHP compliance monitoring on an ongoing basis. Feedback about the ECP petition is collected from stakeholders in an effort to improve the efficiency and value of the data collection.

Necessary Data for Provider Petition Submission

HHS will continue to collect the provider data elements as displayed in Appendix A (i.e., the online ECP Provider Petition). Providers are asked to confirm the accuracy of their provider data that appear on the HHS ECP list and update any required data fields, or provide such data if petitioning to be newly added to the list.

In addition, qualified provider petitioners must be MDs, DOs, DDDs, PAs, or NPs authorized by the State to independently treat and prescribe within the listed facility and must attest to the following statements within the petition:

- Provider consents to be added to or remain on the HHS ECP list.
- Provider qualifies as one of the following types of providers: 1) eligible for or participating in the 340B program; (2) a Rural Health Clinic; (3) an Indian Health Care Provider; (4) a State-owned family planning service site, governmental family planning service site, or not-for-profit family planning service site that does not receive Federal funding under special programs, including under Title X of the PHS Act or other 340B-qualifying funding; or (5) a provider that serves predominantly low-income, medically-underserved individuals and is located in a low-income ZIP code or HPSA[1].
- Provider accepts patients regardless of ability to pay and offers a sliding fee schedule.[2]
- Provider accepts patients regardless of coverage source (i.e., Medicare, Medicaid, CHIP, private health insurance, etc.).
- Provider agrees to be listed in a consumer-facing directory of ECPs.
- Provider lists the number of FTE medical and dental practitioners at the given facility; or the number of staffed hospital beds, in the case of hospital providers.
- Provider lists the number of executed contracts and good faith contract offers rejected.
- Provider indicates the types of services, among a list of services, it provides to patients with opioid use disorder.

2. Purposes and Use of Information Collection

The purpose of the ECP provider petition is for HHS to achieve the following:

- For providers that are not on the HHS ECP list,

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[1] Based on the HHS Low-Income and Health Professional Shortage Area (HPSA) ZIP Code Listing," available at https://www.qhpcertification.cms.gov/s/ECP%20and%20Network%20Adequacy.

[2] The following types of providers are exempt from this requirement: (1) providers that are eligible for or participating in the 340B program; (2) Rural Health Clinics; (3) Indian health care providers; or (4) State-owned family planning service sites, governmental family planning service sites, or not-for-profit family planning service sites that do not receive Federal funding under special programs, including under Title X of the PHS Act or other 340B-qualifying funding.

  - Collect information to determine whether a provider requesting to be added to the ECP list meets the definition of an ECP under 45 CFR 156.235.
- For providers that are on the HHS ECP list,
  - Allow providers an opportunity to update or correct their provider data on the HHS ECP list, such as the National Provider Identifiers (NPIs), points of contact (POCs), and the number of MDs, DOs, PAs, NPs, DMDs, and DDSs authorized by the State to independently treat and prescribe within the listed facility; and
  - Obtain confirmation from providers that they are aware that they are on the list and elect to remain on the HHS ECP list.

The HHS ECP list is not exhaustive and does not include every provider that participates or is eligible to participate in the 340B drug program, every provider that is described under section 1927(c)(c)(1)(D)(i)(IV) of the Social Security Act, or every provider that might otherwise qualify under the regulatory standard at 45 CFR 156.235. HHS will continue to review provider petitions for inclusion on the HHS ECP list in an effort to build a more robust HHS ECP listing of the universe of available ECPs from which issuers select to satisfy the 20 percent ECP standard for a given service area. Additionally, issuers may use the points of contact on the ECP list to aid in provider network development. Provider participation in this data collection effort through the ECP provider petition will continue to support HHS's policy for counting issuers' ECP write-ins toward satisfaction of the ECP standard.

3. <u>Use of Improved Information Technology and Provider Burden Reduction</u>

HHS has made programming enhancements to its online ECP petition process as a mechanism to reduce provider burden with respect to submitting and updating their data for inclusion on the HHS ECP list. HHS will continue to accept provider petitions in only the required online format to ensure the integrity of the provider data received and to reduce the burden on providers when providing their data. The required format lowers the burden on providers by virtue of interactive programming logic that imports provider data from the existing HHS ECP list for providers that already appear on the list and by graying out non-applicable data fields based on the provider's selections. The required format includes provider completion of all required data fields and will generate error messages that provide guidance to the petitioner on how to resolve any identified errors or incomplete data fields to assist the petitioner with validating and submitting the petition to HHS. Detailed instructions for completing each data field appear within the petition as the petitioner places the cursor over each information icon.

4. <u>Efforts to Identify Duplication and Use of Similar Information</u>

Providers that appear are on the existing HHS ECP list are asked to enter the row number from the existing HHS ECP list. The provider petition is then programmed to import the provider data from the existing HHS ECP list into the provider petition to eliminate duplication of effort by the provider. Providers are asked to confirm the accuracy of their provider data that appear on the existing HHS ECP list and correct any outdated data, or provide such data if petitioning to be newly added to the list. The data collected via the provider petition will continue to reduce issuer and provider burden by building a more complete and accurate listing of ECPs from which issuers select to satisfy the 20 percent ECP standard.

5. Impact on Small Businesses

We do not anticipate that small businesses will be significantly burdened by this data collection. Many of the small business providers who complete the petition will benefit from the increased accuracy of their data appearing on the HHS ECP list.

6. Less Frequent Collection

The burden associated with this information collection consists of providers either updating their ECP data to remain on the HHS ECP list or providing the required data to be newly added to the HHS ECP list. Since provider demographics and provider contracts with issuers change on an ongoing basis, HHS requires QHP issuers to report their ECP contracts annually via the ECP template to ensure the accuracy of their provider network data, so HHS will continue to collect this provider data on an annual basis. For providers already appearing on the existing HHS ECP list, we have minimized the provider burden for renewing petitioners by prepopulating data fields with the provider's existing data. This allows for renewing providers to complete the petition by answering only a small subset of questions to remain on the ECP list for the subsequent benefit year. These questions pertain to the categories of health services currently being provided at the facility and the provider's number of contracts executed with QHP issuers for the subsequent benefit year. The three-year burden estimates include estimates for renewing providers and newly petitioning providers. We will continue to reassess the provider petition burden and make every effort to further minimize provider burden in the future.

7. Special Circumstances

There are no anticipated special circumstances.

8. Federal Register/Outside Consultation

As required by the Paperwork Reduction Act of 1995 (44 U.S.C.2506 (c)(2)(A)), CCIIO must publish a 60- and 30-day notice in the Federal Register soliciting public comment on its proposed information collection requirements. The 60-day Federal Register Notice was published on March 27, 2018 (83 FR 13130). No comments were received. A 30-day Notice will publish in the Federal Register on XX/XX/18 for the public to submit written comment on the information collection requirements.

The goal of this data collection is to inform the QHP certification and recertification process by continuing to utilize the online ECP provider petition to improve the accuracy of the HHS ECP list and simplify issuer reporting of ECPs included in their networks via the ECP template. Throughout the past three years of certification activities, HHS has received extensive feedback from key stakeholders regarding the improved accuracy of the HHS ECP list as a result of the online ECP petition. These discussions have included webinars and user group calls with providers, provider associations, States, issuers, issuer associations, and Federal partners on strategies to improve the accuracy of the HHS ECP list and simplifying issuer reporting of ECPs included in their networks. It is the goal of HHS and stakeholders to identify ways to continually

improve the validity of the ECP data. The HHS will continue to work with key stakeholders to minimize any required data submission to streamline and reduce duplication.

9. Payments/Gifts to Respondents

No payments and/or gifts will be provided.

10. Confidentiality

There are no confidentiality issues with this collection.

11. Sensitive Questions

No sensitive questions are included in these notice requirements.

12. Burden Estimates (Hours & Wages)

The burden associated with this data collection is estimated to be 7,107 burden hours for providers in total for year one. We developed this burden estimate based on the number of providers appearing on the HHS ECP list for the 2019 benefit year, as well as HHS's experience collecting similar data from providers through the online ECP petition for the 2017-2018 benefit years.

We developed the provider burden estimates for years 2 and 3 based on the average 5 percent increase in providers listed on the HHS ECP list over the past certification year, in addition to the expectation that additional providers will petition in future years.

The following section of this document contains an estimate of the burden imposed by the associated information collection requirements (ICRs). Salaries for the positions cited were completely taken from the Bureau of Labor Statistics (BLS) website (http://www.bls.gov/bls/blswage.htm). All wage rates have been adjusted by 100 percent to account for fringe benefits and overhead costs.

We estimate that in the first year, it will take one hour for a provider to complete and submit the ECP provider petition to be newly added to the ECP list. For a provider that already appears on the existing HHS ECP list, we estimate that it will take a half hour to complete the subset of renewal questions and renew or update its existing provider data that will appear prepopulated within the petition.

We estimate that 12,922 providers will be subject to the petition renewal requirement for year one. On average, in the first year, we estimate that it will take a renewing provider a half hour (at $26 an hour[3]) to complete and submit the ECP provider petition. In addition, we estimate that 646 providers will submit a petition requesting to be newly added to the ECP list for year

[3]Employment rates determined by the national estimates for the occupational employment and wages, May 2017 at http://www.bls.gov/oes/current/oes431011.htm. At the time of this publication, the 2018 National Occupational Employment and Wage Estimates were not yet available from the Bureau of Labor Statistics.

one. On average, in the first year, we estimate that it will take a provider one hour (at $26 an hour) to complete and submit the ECP provider petition to be newly added to the ECP list. The total estimated burden is $13 for each renewing provider and $26 per year for each newly petitioning provider or $184,782 for all providers in year one. We estimate that the same time averages for completing the petition in year one will apply for years two and three. In addition, we estimate that the increase in the percentage of providers petitioning to be added each year will be 5 percent.

Based on these estimates, the cost burden for renewing providers is estimated to be $13 (including fringe benefits) for each provider and the cost burden for providers petitioning to be newly added to the HHS ECP list is estimated to be $26 for each provider for years two and three. For year two, HHS estimates a total of 13,568 renewing providers and 678 providers petitioning to be newly added to the HHS ECP list, totaling $176,384 for renewing providers and $17,628 for providers petitioning to be newly added to the HHS ECP list. For year three, HHS estimates a total of 14,246 renewing providers and 712 providers petitioning to be newly added to the HHS ECP list, totaling $185,198 for renewing providers and $18,512 for providers petitioning to be newly added to the HHS ECP list.

Table 1: Burden to Providers

Year	**Labor Category**	**Hourly Labor Costs** (Hourly rate + 100% for Fringe benefits)	**Burden Hours**	**Total Cost per Provider**	**Total Number of Providers**	**Total Annual Cost for all Providers**
One	Administrative Support Supervisor	$26	0.5 (renewals); 1 (new adds)	$13 (renewals); $26 (new adds)	12,922 (renewals); 646 (new adds)	$167,986 (renewals); $16,796 (new adds)
Two	Administrative Support Supervisor	$26	0.5 (renewals); 1 (new adds)	$13 (renewals); $26 (new adds)	13,568 (renewals); 678 (new adds)	$176,384 (renewals); $17,628 (new adds)
Three	Administrative Support Supervisor	$26	0.5 (renewals); 1 (new adds)	$13 (renewals); $26 (new adds)	14,246 (renewals); 712 (new adds)	$185,198 (renewals); $18,512 (new adds)
Total Burden for 3 years			**22,404 hours**	$39 (renewals yrs. 1-3); $52 (new adds year 1 and renewals yrs. 2-3)	**14,958 providers**	**$582,504**

13. Capital Costs

There are no additional capital costs.

14. Cost to Federal Government

For year one, we estimate that the operations and maintenance costs to the Federal government for the ECP provider petition (i.e., the collection instrument) will be $74,445 in contractor support and $50,000 in HHS staff resources for a total cost of $124,445. These estimates include costs associated with annual programming updates and operational maintenance of the provider petition process and generation of the annual draft and final HHS ECP lists by importing provider data collected from the ECP provider petitions. These estimates are based in part on HHS's costs incurred to generate the 2019 HHS ECP list.

We estimate that the cost to the Federal government for years two and three will remain stable as compared to year one. Therefore, for years two and three, we estimate that the total cost per year to the Federal Government for the operations and maintenance of the ECP provider petition will be $124,445.

15. Changes in Burden

Reductions in the three-year provider cost burden are associated, in part, with programming enhancements that HHS has made to its online ECP petition process for providers updating their data for inclusion on the HHS ECP list. We estimate that this logic enhancement will reduce the amount of time for providers to renew their ECP listing by at least 50 percent, necessitating only a half hour to complete the online petition, rather than an hour.

Additional reductions in the three-year provider cost burden pertain to an estimated decrease of 16,676 total providers needing to submit the online ECP petition, due to an overall decrease in available ECPs. Fewer providers needing to submit the online ECP petition will reduce the three-year cost burden to the Federal Government with respect to reviewing these online petitions. Furthermore, the Federal Government is estimated to have fewer operational costs during years 2019-2021, compared with years 2016-2018 that included design and launch costs of the online provider petition.

16. Publication/Tabulation Dates

The information collection from providers is anticipated under this request to occur at any time throughout the three-year period, as the online ECP petition is available to providers year-round. We will collect this provider data throughout the year and make a portion of the data public via the update to the HHS ECP list that is published annually on our CCIIO website at https://www.qhpcertification.cms.gov/s/QHP.

17. Expiration Date

The expiration date and OMB control number will appear on the first page of the instrument (top-right corner).