

**Supporting Statement for Essential Community Provider-Network Adequacy  
(ECP/NA) Data Collection to Support QHP Certification  
(CMS-NEW/OMB control number: 0938-NEW)**

**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 ensure access to 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, medical QHP and SADP issuers must submit an Essential Community Provider/Network Adequacy (ECP/NA) 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. In the Issuer Module, issuers will also have to attest to meeting each element of the ECP standard.

In accordance with section 1311(c)(1)(B) of the ACA, QHP issuers, including SADP issuers, are required to ensure a sufficient choice of providers (in a manner consistent with the applicable provisions under section 2702(c) of the Public Health Service Act). Issuers must also provide information to current and prospective enrollees on the availability of in-network and out-of-network providers. Under CFR 156.230, QHPs that use a provider network must ensure that the network is sufficient in number and types of providers, including providers that specialize in mental health and substance use disorder services, to assure that all services will be accessible without unreasonable delay.

To satisfy these requirements for network adequacy and reasonable access to providers, medical QHP and SADP issuers must complete the network adequacy portions of the ECP/NA template. Issuers must list the providers with whom they have contracted, including the provider's specialty type and whether they offer telehealth services. This information in the ECP/NA template will be used to determine if an issuer satisfies the network adequacy time and distance standards. In the Issuer Module, issuers will also have to attest to meeting each element of the network adequacy standard, including appointment wait times.

This information collection request (ICR) serves as a formal request for a new clearance associated with the Department of Health and Human Services (HHS) Notice of Benefit and Payment

Parameters for 2023 Proposed Rule (2023 Payment Notice). This ICR details the burden associated with collecting and reviewing essential community provider and network adequacy data.

## **B. Justification**

### **1. Need and Legal Basis**

Standards for ECP requirements are codified at 45 CFR 156.235 and the network adequacy requirements are codified at 45 CFR 156.230. HHS will collect the following data elements from issuers. The ECP/NA template is provided in Appendix A and the Issuer Module Mockup is provided in Appendix B.

- **Essential Community Provider and Network Adequacy Data Elements:** Issuers must submit provider information and geographic location of ECPs participating in an issuer's provider network to demonstrate that an issuer has a sufficient number and geographic distribution of ECPs that serve predominantly low-income, medically underserved individuals in accordance with ECP inclusion requirements found at 45 CFR 156.235. Additionally, issuers must collect and submit provider information necessary to demonstrate an issuer's satisfaction of time and distance standards. Issuers must collect provider information necessary to attest to meeting appointment wait time standards. These collections and submissions are to ensure that an issuer's network has fulfilled the network adequacy reasonable access standard found at 45 CFR 156.230. This information includes the provider's geographic location and specialty and should only be collected and submitted for in-network providers. An issuer must report the offering of telehealth services for each individual provider participating in its network to help inform future development of network adequacy standards. This requirement does not apply to facilities. If an issuer does not meet ECP standards, they must submit a completed ECP Justification Form to explain how the plan will ensure a sufficient number of ECPs and geographic distribution of ECP types. If an issuer does not meet network adequacy standards, they must submit a completed Network Adequacy Justification Form to explain how the plan will ensure reasonable and timely access to the provider specialty types included in the time and distance standards and appointment wait time standards.

### **2. Information Users**

The Exchange collects plan- and issuer-level data from issuers to facilitate the certification and recertification of QHPs, Exchange operations, other Federal operations, QHP oversight, and ongoing market analysis. All of these data are leveraged across multiple business areas in the Exchange to facilitate other operational tasks such as plan comparisons on the insurance portal and various payment activities, such as determination of the second lowest cost silver plan, APTCs, or risk adjustment.

HHS uses information submitted on the ECP/NA template to determine if issuers meet the ECP and network adequacy standards. If issuers do not meet these standards, HHS uses the information from

the ECP/NA template to provide technical assistance to the issuer, which can include identifying potential areas for improvement. Issuers also can use the information collected in the ECP/NA template to assess their alignment with ECP and network adequacy standards. Issuers can use the ECP Tool to calculate if they meet the ECP standards by running it on the completed ECP/NA template. It is critical to collect the provider data on the ECP/NA template so that HHS can assess compliance with network adequacy and ECP standards to ensure that QHP enrollees have reasonable, timely access to a sufficient number and types of providers, including ECPs, to meet their health care needs.

### 3. Use of Information Technology

HHS has engaged and continues to engage with states, issuers, and the National Association of Insurance Commissioners (NAIC) in the effort to develop data standards for QHP certification, risk adjustment, and other plan management activities, including ECP and network adequacy standards, that would make reporting to the Exchanges more streamlined for issuers across the country, and allow them to submit information in a manner that is standardized to the greatest extent possible.

HHS has updated the ECP/NA template and justification forms to reduce issuer burden where possible. The template includes additional validations, which generate error messages that provide guidance to the issuer on how to resolve any identified errors or incomplete data fields to assist the issuer with validating and submitting the template to HHS. The ECP List is also embedded within the ECP/NA template, which reduces issuer burden since they can select ECPs from the list, rather than the issuer having to collect the provider data themselves. The ECP/NA template is also programmed to auto-populate the majority of the ECP data for the issuer once the issuer has selected the providers with whom they contract from the ECP List that is embedded within the template. HHS has updated the ECP Justification Form so there are four versions depending on whether the issuer is a general standard or alternate standard issuer and whether it is a medical QHP or SADP. Since there is now a specific ECP Justification Form for each issuer type, the questions are tailored to that issuer type, thereby increasing clarity for which questions apply to which issuer types, and reducing issuer burden. Issuers will receive a pre-populated Network Adequacy Justification Form for any deficiencies via the PM Community, and can pre-populate an ECP Justification Form using the ECP Tool. This will further reduce issuer burden.

### 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 businesses.

### 6. Less Frequent Collection

QHPs will be certified utilizing an annual certification process. We will continue to reassess the certification and recertification burden and make every effort to minimize burden as much as possible in the future. Since provider information and provider contracts with issuers change on an ongoing basis, HHS requires QHP issuers to submit annually the provider information that impacts compliance with the ECP and network adequacy standards. It is important to collect ECP/NA template data on an annual basis in order to ensure that QHPs being sold on the FFE meet the ACA requirements for ECP and network adequacy. If HHS were to institute less frequent collection of said data, there would be a risk that QHP enrollees may not have access to ECPs and other provider specialties to meet their health care needs.

#### 7. Special Circumstances

There are no anticipated special circumstances.

#### 8. Federal Register/Outside Consultation

A 60-day notice will be published in the Federal Register on XX/XX/20XX 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. HHS has also continued to receive extensive feedback from key stakeholders. This included discussions, such as question and answer sessions during webinars, stakeholder workgroups, and calls with the NAIC, states, issuer associations, issuers, provider associations, and industry vendors on the data elements and collection. It is the goal of HHS and stakeholders to identify shared data points and improve the validity of such data. HHS will continue to work with states to minimize any required document submission to streamline and reduce duplication.

#### 9. Payment/Gifts to Respondents

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

#### 10. Confidentiality

Some information included in this collection must necessarily be made public during Open Enrollment so that consumers can make informed choices. To the extent of the applicable law and HHS policies, we will maintain consumer privacy with respect to the information disclosed.

#### 11. Sensitive Questions

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

#### 12. Burden Estimates (Hours & Wages)

The mean hourly wage for the position of compliance officer is from the Bureau of Labor Statistics (BLS) Web site: <https://www.bls.gov/oes/current/oes131041.htm>. The adjusted hourly wage of \$72.70 is the total of the mean hourly wage of \$36.35 plus 100% fringe benefit rate of \$36.35, see Table 1.

**Table 1. Adjusted Hourly Wages Used in Burden Estimates**

Occupation Title	Occupational Code	Mean Hourly Wage (\$/hour)	Fringe Benefits & Overhead (100%) (\$/hour)	Adjusted Hourly Wage (\$/hour)
Compliance Officer	13-1041	\$36.35	\$36.35	\$72.70

### **Burden for QHP Issuers**

The burden on QHP issuers for this data collection per year is estimated to be 4,300 burden hours, or 20 hours per issuer. This estimate is based on an assumed 215 issuers each offering 16 plans. At an adjusted hourly wage rate of \$72.70 (includes 100% fringe benefit), the total cost was estimated to be \$1,454 per issuer. The burden estimate includes collecting and reviewing network adequacy data starting in PY2023 (after pausing the network adequacy reviews for the past four years). The number of issuers is based on the number of applications for 2022.

Pursuant to 45 CFR 156.235, an issuer must include a sufficient number and geographic distribution of ECPs to ensure access for low-income, medically underserved individuals. Pursuant to 45 CFR 156.230, an issuer must collect provider information necessary to demonstrate an issuer’s satisfaction of time and distance standards, and report the offering of telehealth services for each provider.

**Table 2. Burden for QHP Issuers**

Year	Number of Issuers	Hours Per Issuer	Total Burden Hours	Total Burden Cost Per Issuer	Total Burden Costs (All Issuers)
2022	215	20	4,300	\$1,454	\$312,610
2023	215	20	4,300	\$1,454	\$312,610
2024	215	20	4,300	\$1,454	\$312,610

### **Burden for Stand-Alone Dental Issuers**

The burden on stand-alone dental issuers for this data collection each year is estimated to be 1,080 total burden hours, or 4 hours per issuer due to needing to report only one provider specialty type (dental providers) for time and distance and appointment wait times. This estimate is based on an

assumed 270 issuers each offering 3 plans. At an adjusted hourly wage rate of \$72.70 (includes 100% fringe benefit), the total cost was estimated to be \$290.80 per issuer. The burden estimate includes collecting and reviewing Network Adequacy data starting in PY2023 (after pausing the NA reviews for the past four years). The number of issuers is based on the number of applications for 2022.

Pursuant to 45 CFR 156.235, an issuer must include a sufficient number and geographic distribution of ECPs to ensure access for low-income, medically underserved individuals. Pursuant to 45 CFR 156.230, an issuer must collect provider information necessary to demonstrate an issuer’s satisfaction of time and distance standards, and report the offering of telehealth services for each provider.

**Table 3. Burden for Stand-Alone Dental Issuers**

<b>Year</b>	<b>Number of Issuers</b>	<b>Hours Per Issuer</b>	<b>Total Burden Hours</b>	<b>Total Burden Cost Per Issuer</b>	<b>Total Burden Costs (All Issuers)</b>
2022	270	4	1,080	\$290.80	\$78,516
2023	270	4	1,080	\$290.80	\$78,516
2024	270	4	1,080	\$290.80	\$78,516

**Table 4. Summary of Annual Total Burden**

<b>Table Number: Name</b>	<b>CFR Section</b>	<b>Total Burden Hours</b>	<b>Total Burden Costs</b>
Table 2: Burden for QHP Issuers	45 C.F.R. § 156.235, 156.230	4,300	\$312,610
Table 3: Burden for Stand-Alone Dental Issuers	45 C.F.R. § 156.235, 156.230	1,080	\$78,516
<b>Total</b>		<b>5,380</b>	<b>\$391,126</b>

13. Capital Costs

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

14. Cost to Federal Government

We estimate the operations and maintenance costs for the data collection tool and the data collection support to have a total cost of \$274,176 per year. 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/2021/GS\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/GS_h.pdf)

**Table 5. Administrative Burden Costs for the Federal Government Associated with the ECP/NA Collection**

<b>Task</b>	<b>Estimated Cost</b>
Operations, maintenance, and data collection support	
2 GS-13 (step 1): 2 x \$76.16 <sup>1</sup> x 1,800 hours	\$274,176
Total Costs to Government	\$274,176

15. Changes to Burden

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

16. Publication/Tabulation Dates

The information collected on the ECP/NA template and in the Issuer Module is used to assess compliance with ECP and network adequacy standards for the purpose of the QHP certification process. The data are not made public.

17. Expiration Date

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

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<sup>1</sup> Hourly basic rate x 100% fringe benefit rate.