

Supporting Statement for Agent/Broker Data Collection in Federally-Facilitated Health Insurance Exchanges (CMS-10464/OMB control number: 0938-1204)

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”), expands 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 for coverage effective starting 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.

Revised requirements pertaining to agents/brokers completing Federally-facilitated Exchange (FFE) registration are discussed in the final rule published on February 27, 2015 for the *Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2016* (CMS-9944-F). These updated requirements direct agents/brokers to submit additional fields related to basic contact information and National Producer Number (NPN). Current state licensure and relevant health lines of authority (LOA) are then validated using the National Insurance Producer Registry (NIPR) database.

The original approved ICR (OMB #: 0938-1204) titled *Agent/Broker Data Collection in Federally-facilitated Health Insurance Exchanges* was approved on 7/18/2013. The information collection request (ICR) was most recently revised and the renewal approved with change on 7/13/2019. This ICR serves as the formal request for renewal of the existing data collection.

The Centers for Medicare & Medicaid Services (CMS) recognizes the longstanding role that agents/brokers have played in connecting individuals and small businesses with health insurance products. Section 1312(e) of the Affordable Care Act and 45 C.F.R. §155.220(a)(1) expands the role of agents/brokers by permitting them to enroll qualified individuals or small employers/employees in qualified health plans (QHPs) through the Exchanges, and assist individuals in applying for Advance Premium Tax Credits (APTCs) and Cost Sharing Reductions (CSRs). To participate as facilitators to enrollment, agents/brokers must register with the FFE, complete a training course covering eligibility and enrollment criteria for assisting in QHP enrollment, and sign agreements that formalize their understanding and commitment to adhere to the rules of the program. This requirement is specific to the FFE and does not automatically apply to State-based Exchanges (SBEs).

B. Justification

1. Need and Legal Basis

Both section 1312(e) of the Affordable Care Act and 45 C.F.R §155.220 permit States to allow agents/brokers to enroll qualified individuals, employers, and employees in QHPs (including through the Exchanges) and assist individuals in applying for APTCs and CSRs. Agents/brokers serve as additional access points to the Exchanges for individuals or SHOP employers/employees requiring or desiring agent/broker assistance.

In order to interface with the FFE, agents/brokers must obtain an FFE user ID. Additionally, agents/brokers must register for, and successfully complete, Exchange-specific training. The Exchange-specific training ensures agents/brokers' understanding of eligibility and enrollment requirements in Exchanges. Agents/brokers must also apply this knowledge to use or develop any non-Exchange Web sites, such as an issuer's or web broker's Web site, used as a tool for enrollment.

2. Information Users

CMS collects personally identifiable information from agents/brokers to register them with the FFE and permit them to assist individuals and employers in enrolling in the FFE. CMS uses this collection of information to ensure agents/brokers possess the basic knowledge required to enroll individuals and Small Business Health Options Program (SHOP) employers/employees through the Exchanges. This information is also used to validate state licensure status information and health LOA contained in the NIPR.

3. Use of Information Technology

This information collection is conducted online and is 100% electronic. Agents/brokers will use CMS or third-party systems to enter identifying information and register with the FFE. As a component of registration, agents/brokers are required to complete online training courses through a CMS or third-party Marketplace Learning Management System (MLMS). Upon completion of their training requirements, agents/brokers will be required to attest to their agreement to adhere to FFE standards and requirements through a CMS or third-party MLMS.

CMS has updated the wage rates used to calculate the burden cost to reflect the most current information available from the Bureau of Labor Statistics. Based on participation rates not available when the original collection request was developed in 2013, and trends observed from the information collected in the current collection request updated in 2019, CMS has increased the total number of respondents included in the 2019 update. However, while completion of training is a required annual process, collection of user information is only completed the first year of participation. As a significant number of respondents will now be completing registration and training for the subsequent years, CMS has reduced the time required for each response. CMS has also introduced a refresher training option which significantly reduces the time required for completion of registration and training for returning agents and brokers.

4. Duplication of Efforts

This information collection does not duplicate any other effort and the information cannot be obtained from any other source.

5. Small Businesses

By their nature, many agents/brokers are small businesses. The data collection and training approach employed in this process was tailored to meet their needs and to minimize burden to this group.

6. Less Frequent Collection

Annual registration and training are required for agents/brokers to update their knowledge and maintain the ability to enroll individuals or SHOP employer/employees in QHPs through the FFE. CMS requires annual registration and training to ensure agents/brokers are operating under the most current CMS guidelines and with knowledge of the most up-to-date market information. This is the minimum collection necessary for agents/brokers to meet the registration requirements required by the Exchange final rule and regulations, 45 C.F.R. §155.220(d)-(e).

7. Special Circumstances

There are no special circumstances.

8. Federal Register/Outside Consultation

A 60-day notice was published in the Federal Register on May 26, 2022 (87 FR 32028). No comments were received. A 30-day notice published in the Federal Register on July 29, 2022 (87 FR 45777).

No additional outside consultation was sought.

9. Payments/Gifts to Respondents

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

10. Confidentiality

Some information collected during the registration process, including contact information for the agents/brokers such as names, telephone numbers, and e-mail addresses, is published on Healthcare.gov to facilitate consumer contact with the agents/brokers. This use of information is authorized by 45 C.F.R. §155.220(b), and has been reviewed by the CMS Office of General Counsel. All other information obtained by CMS for this data collection will be kept private pursuant to applicable laws/regulations, including the Freedom of Information Act (FOIA), 45 C.F.R §5.65.

11. Sensitive Questions

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

12. Burden Estimates (Hours & Wages)

The burden associated with this data collection can be attributed to agents/brokers. The following sections of this document contain estimates of burden imposed by the associated information collection requirements. The mean hourly wage for the position of insurance sales agents is from the Bureau of Labor Statistics (BLS) web site: <https://www.bls.gov/oes/current/oes413021.htm>. The adjusted hourly wage of \$66.44 is the total of the mean hourly wage of \$33.22 plus 100% fringe benefit rate of \$33.22, 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)
Insurance Sales Agents	41-3021	\$33.22	\$33.22	\$66.44

Burden for Agents/Brokers: FFE Registration/Training

In order to participate in the Exchanges, insurance agents and brokers who guide consumers and small businesses through enrollment/re-enrollment in QHPs offered on the FFE will have to register annually with the FFE, which includes taking online training. FFE registration and training includes the collection of basic contact information such as business name, address, phone number, and email address. In addition, agents/brokers will be required to provide their National Producer Number. At the conclusion of training, agents/brokers will attest to their adherence to FFE standards and requirements. Web brokers will sign and submit a similar agreement.

The initial OMB clearance, OMB Control No. 0938-1204, specified the number of respondents as 350,000. CMS revised the estimates based upon participation data collected. CMS actual participation during the first year of operation was 53,271 agents/brokers. As of February 21, 2022, the total number of agents/brokers for the 2022 plan year was 60,298. Of that total, 49,678 (82.4%) were returning agents/brokers who reviewed their existing registration data, which creates a lower burden to agents and brokers, and 10,620 (17.6%) were new agents/brokers. We estimate annual respondents to be 64,000 and, due to market assumptions, CMS does not anticipate growth in the total figure of annual participating agents and brokers.

The data elements necessary for agents/brokers to complete FFE registration and training include basic contact information such as business name, address, phone number, and email address. In addition, agents/brokers will be required to provide their National Producer Number. At the conclusion of training, agents/brokers will attest to their adherence to FFE standards and requirements. Web brokers will sign and submit a similar agreement.

CMS estimates that it will take each new insurance sales agent approximately 24 minutes or less (0.40 hours) per agent to complete the registration data collection and execute the annual agreements for the first time. We estimate 20 percent of the annual participation total of 64,000 agent/brokers (12,800 respondents) will be new to registration and training. The total annualized burden for 12,800

registrants is 5,120 hours at a rate of \$66.44 per hour is \$340,173.

Pursuant to Section 1312(e) of the Affordable Care Act and 45 C.F.R. §155.220 agents/brokers are permitted to participate as facilitators to enrollment and must register with the FFE, complete a training course covering eligibility and enrollment criteria for assisting in QHP enrollment.

Table 2. Burden for New Agents/Brokers: FFE Registration/Training

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)
Insurance Sales Agents	12,800	\$66.44	0.40	\$26.58	
Total – Annual					\$340,173
Total – Three Years					\$1,020,519

CMS estimates that it will take each returning insurance sales agent approximately 12 minutes or less (0.20 hours) per agent to review and update the registration data collection provided during prior years and to execute the annual agreements. We estimate 80 percent of the annual participation total of 64,000 agent/brokers (51,200 respondents) will be returning. The total annualized burden for 51,200 registrants is 10,240 hours at a rate of \$66.44 per hour is \$680,346.

Pursuant to Section 1312(e) of the Affordable Care Act and 45 C.F.R. §155.220 agents/brokers are permitted to participate as facilitators to enrollment and must register with the FFE, complete a training course covering eligibility and enrollment criteria for assisting in QHP enrollment.

Table 3. Burden for Returning Agents/Brokers: FFE Registration/Training

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)
Insurance Sales Agent	51,200	\$66.44	0.20	\$13.29	
Total-Annual					\$680,346
Total - Three Years					\$2,041,038

Table 4: Summary of Annual Total Burden

Table Number: Name	CFR Section	Total Burden Hours	Total Burden Costs
Table 2. Burden for New Agents/Brokers: FFE Registration/Training	45 C.F.R. §155.220	5,120	\$340,173
Table 3. Burden for Returning Agents/Brokers: FFE Registration/Training	45 C.F.R. §155.220	10,240	\$680,346
Total		15,360	\$1,020,519

13. Capital Costs

There are no anticipated capital costs associated with this information collection.

14. Cost to Federal Government

We estimate that the operations and maintenance costs for the data collection will be \$5,118 on an annual basis. Monitoring and maintaining training and registration cost for the Federal government is estimated at one GS-13 step-1 with locality pay area of Washington-Baltimore at an adjusted hourly rate of \$102.36 for 50 hours per year. The adjusted hourly wage of \$102.36 is the total of the hourly rate of 51.18 for one GS-13 step-1 with locality pay of Washington-Baltimore plus 100% fringe benefit rate of \$51.18. For all three years, the cost to the Federal government is estimated to be \$15,354. The calculations for CMS employees' hourly salary were obtained from the OPM website: https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2022/DCB_h.pdf.

Table 5: Administrative Burden Costs for the Federal Government Associated with Agent/Broker Data Collection in Federally- Facilitated Health Insurance Exchanges

Task	Estimated Cost
Operations, maintenance, and data collection support	
GS-13 (step 1): 1 x \$102.36 x 50 hours	\$5,118
Total Annual Costs to Government	\$5,118
Total Costs to Government for Three Years	\$15,354

15. Changes to Burden

There is an overall increase in the financial burden from the 2019 PRA package because of an increase in the adjusted hourly wage of the insurance sales agent from the Bureau of Labor Statistics from \$47.80 to \$66.44. Additionally, the number of agents/brokers increased

from 52,000 to 64,000 based on the number of registered agents/brokers for plan year 2022.

With this ICR, the estimated annualized burden hours are 15,360. The estimated annual costs increased from \$596,544 to \$1,020,519, amounting to an increase of \$423,975.

16. Publication/Tabulation Dates

Agent/broker FFE registration and completion of the required training occurs annually. The information collection from agents/brokers is anticipated under this request to occur throughout the year as agents/brokers complete training. Select data elements submitted to CMS will be made public through Healthcare.gov on a recurring basis to ensure the most up-to-date information is available to Exchange consumers. In addition, NPNs provided during the registration process are made available to issuers and to states to allow for verification of registration completion.

17. Expiration Date

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