Essential Community Provider/Network Adequacy (ECP/NA) Data Collection to Support QHP Certification (CMS-10803/0938-NEW)
60-Day Public Comment Response Summary (Ended 03/07/2022)

Comment Type	Comment Summary	Response
Burden	Commenters submitted two remarks regarding the burden estimates associated with the addition of telehealth data collection reporting for SADPs. Commenters expressed concern that the burden was underestimated for SADPs and should be reassessed. The commenters shared that they believe the burden is underestimated because: SADPs do not currently collect data on telehealth; the estimate does not include costs for a second reviewer; and the hourly rate and total estimated hours are too low.	We appreciate the feedback received on the burden estimates for SADPs. HHS is aware that the actual burden will vary for each QHP based on a variety of factors. We acknowledge that telehealth data collection may increase the burden for some QHPs, including SADPs. We are also aware that some QHPs already have telehealth data available, from sources like claims data or provider surveys. We have reflected the telehealth data collection requirement in our burden estimates and believe these estimates are reasonable. For issuers that have not yet received responses from providers regarding telehealth availability and do not have that information available from other sources, like claims data, they can select the response on the template that they are awaiting a response from that provider. For QHP certification data collection and reporting, we use the mean hourly wages for a compliance officer to estimate costs. This data was retrieved from the Bureau of Labor Statistics web site.[1] HHS believes that this job title and associated hourly wage provide a reasonable basis for our estimates. We understand that multiple staff at different levels may be involved and the total number of anticipated hours reflects that. It is up to each issuer to determine their process for collecting and reporting ECP/NA data and how many staff are involved. We will collect user experience data regarding the information collection requirements related to network adequacy and will reassess burden estimates for future years as needed.

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[1] *Occupational Employment and Wages, May 2021*. (2022, March 31). Bureau of Labor Statistics. https://www.bls.gov/oes/current/oes131041.htm

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Burden	Two commenters expressed concern that the burden estimate was too low.	HHS believes the burden estimates accurately reflect the time it takes for an issuer to complete the activities described in this package and bases its estimates on extrapolation from experience in prior plan years.
General	One commenter stated that updates made to ECP/NA data collection are necessary and should be approved.	HHS agrees that the ECP/NA data collection is necessary to support the ECP/NA portions of the QHP certification review process.
State Deferral and Coordination	Some commenters recommended that HHS defer to states that have similar network adequacy standards as the federal network adequacy standards, and coordinate with states and NAIC where possible.	HHS will defer to states performing plan management that elect to perform their own reviews during QHP certification, provided that the state applies and enforces network adequacy standards that are at least as stringent as the federal standards. HHS will continue to coordinate with states and NAIC.
Suggestion to Strengthen Network Adequacy Policy	A commenter encouraged HHS to identify plans that use very narrow networks as a discriminatory enrollment selection process rather than to control costs.	HHS appreciates this suggestion and will consider the possibility of identifying plans that use narrow networks as a method to deter consumers with greater health needs from enrollment.
Alignment with Existing Standards	Some commenters recommended that HHS align network adequacy standards with NCQA and Utilization Review Accreditation Commission (URAC) standards.	HHS reviewed the NCQA and URAC standards regarding network adequacy. We believe it is appropriate to align with NCQA in its use of business days to measure appointment wait time standards, which will be finalized in the final PY 2023 Letter to Issuers. We will also finalize that the appointment wait time standard for the behavioral health category will align with NCQA's standards. NCQA and URAC do not have quantitative parameters for the other categories we are finalizing for appointment wait times nor do they have quantitative standards for time and distance.
Network Tiering	One commenter requested HHS allow providers from multiple network tiers to be considered when assessing network adequacy.	HHS is not finalizing the network tiering policy for network adequacy.

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Review Timing	Some commenters requested that HHS defer network adequacy standards until PY 2024 and defer appointment wait time standards until COVID-related provider staffing issues are addressed.	HHS is finalizing appointment wait time standards and delaying implementation until PY 2024.
Review Timing, Implementation Details	Some commenters shared concerns that plans will not have enough time to implement changes required by the proposed network adequacy policies and that plans do not have sufficient details on the implementation plans for these policies. Some commenters offered feedback on specific provider types and requested more detail on how provider types are defined. One commenter requested clarification about aspects of the ECP/NA template, such as telehealth data collection, provider specialty codes, and time and distance parameters.	HHS included details on the implementation of network adequacy policies in the draft 2023 Letter to Issuers and believes issuers will have sufficient time to comply with time and distance standards for PY 2023 and appointment wait time standards beginning in PY 2024. Further information, including detail on definitions of provider types and clarification requested regarding aspects of the ECP/NA template, will be included in the ECP/NA template, FAQs, QHP Application Instructions, and other related documents.
Review Timing	One commenter requested deferral of telehealth data collection.	HHS will collect data from issuers on which providers offer telehealth as many issuers already have this information, can gather it during the required timeframe, or can select that they have requested information from the provider and are awaiting their response.
Justification	Two commenters recommended a clear network adequacy justification process.	HHS has developed streamlined justification processes for network adequacy and ECP that are described in the preamble of the 2023 Payment Notice final rule.

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ECP Threshold	Some commenters requested that HHS use a phased-in approach to increasing the ECP threshold or delay raising the ECP threshold until PY 2024.	HHS is finalizing the ECP threshold for PY 2023 as proposed as it anticipates the majority of issuers will be able to meet the standard and the justification and ECP Write-in processes can be used by issuers that are working to come into compliance with the ECP standards.
Reviews for Rural Areas	One commenter requested HHS consider a different approach to assess network adequacy in rural areas.	HHS believes the time and distance standards for rural areas are reasonable based on our review of industry standards. We will assess time and distance standards at the county level. Rural counties and counties with extreme access considerations will have time and distance parameters that are longer than more metropolitan areas.
Appointment Wait Time Standards	A commenter asked HHS to exclude SADPs from appointment wait time standards requirement.	HHS does not agree that SADPs should be exempt from compliance with appointment wait time standards. HHS believes it is important that timely access to care is ensured, regardless of plan type. HHS will evaluate all plans seeking QHP certification, including SADPs, for compliance with appointment wait times beginning in PY 2024.
Stakeholder Feedback	One commenter recommended that HHS provide additional opportunities for stakeholder feedback on implementation of network adequacy policies.	HHS will continue seeking stakeholder feedback on network adequacy policies on an ongoing basis.
Out of scope	Support amending 45 CFR 147.104(e).	This comment is out of scope as 45 CFR 147.104(e) on non-discrimination protections does not relate to ECP/NA data collection.