

Supporting Statement – Part A  
Medicaid Managed Care and Supporting Regulations  
CMS-10856, OMB 0938-1453

The regulatory sections that support this collection of information request are set out in 42 CFR part 438 (Medicaid Managed Care).

## **BACKGROUND**

This iteration is associated with our May 10, 2024 (89 FR 41002) final rule (CMS-2439-F; RIN 0938-AU99) entitled, “*Medicaid and Children’s Health Insurance Program (CHIP)<sup>1</sup> Managed Care Access, Finance, and Quality.*” The final rule advances CMS’ efforts to improve access to care, quality and health outcomes, and better address health equity issues for Medicaid managed care enrollees. The rule includes standards for timely access to care and States’ monitoring and enforcement efforts, enhanced quality as well as fiscal and program integrity standards for state directed payments (SDPs), new standards that apply when States use in lieu of services and settings (ILOS) to promote effective utilization and specify the scope and nature of ILOS and specify medical loss ratio (MLR) requirements.

When combining State and private sector burden, the rule adds of 5,900 responses and 260,206 hours at a cost of \$26,491,274. There are no reporting instruments or instructions beyond what is in the rule and codified in the CFR.

### **A. JUSTIFICATION**

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

Section 4701 of the Bipartisan Budget Act (BBA) of 1997 created section 1932(a) of the Social Security Act (the Act), changed terminology in Title XIX of the Act and amended section 1903(m) to require that contracts and managed care organizations (MCOs) comply with applicable requirements in the new section. Section 1932(a) permits States to mandatorily enroll most groups of Medicaid beneficiaries into managed care arrangements without section 1915(b) or section 1115 waiver authority.

#### **2. Information Users:**

Reporting: Information required to be reported as specified in 42 CFR part 438 regulations and as indicated the burden estimates in Section 12 below, is used by states for program administration as well as reported to CMS for program compliance monitoring and policy development. The three templates included in this Supporting Statement are used by states for reporting: Managed Care Program Annual Report (MCPAR), Medical Loss Ratio (MLR) Reporting Template, and Network Adequacy and Access Assurances Report (NAAAR) are used for state reporting to CMS. Some of the information reported by States is collected from their contracted managed care plans, as indicated in the Private Sector burden estimates in Section 12.

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<sup>1</sup> Changes to 42 CFR part 457 for CHIP will be submitted to OMB for approval under control number 0938-1282 (CMS-10554)

*Third Party Disclosures:* States are required as specified in 42 CFR part 438 regulations and as indicated the burden estimates in Section 12 below, to include certain requirements in their contracts with their managed care plans. Managed care plans' contracts specify their obligations to the State Medicaid agency. Managed care plans and states must distribute certain information to their enrollees (ex. handbooks and notices) and providers (ex. practice guidelines and notices). Enrollees use this information to understand their rights under the program and how to access care. Providers use the information to understand their rights and obligations as a Medicaid and managed care plan provider.

3. Improved Information Technology:

Section 438.10 finalizes new standards for state operated websites.

Sections 438.3(a), 438.6(c), 438.66(e), 438.74, 438.207(d) and (f) finalize requirements concerning specific reporting to CMS and will all be done electronically. CMS has published templates for states to use to comply with the reporting requirements in §§ 438.66(e) – Managed Care Program Annual Report (MACPAR), 438.207(d) – Network Adequacy and Access Assurance Report (NAAR), and 438.74 – Medical Loss Ratio (MLR) to ensure the receipt of consistent information that can be more easily aggregated and analyzed. With the exception of §§ 438.3(a), 438.6, 438.66(e), 438.74, and 438.207(d) the other sections do not involve submitting information to any entity other than between states and plans. Because this concerns disclosure to a third party, we do not dictate how the information may be disclosed.

4. Duplication of Similar Information:

The information collection requirements that are set out below under section 12 do not duplicate any other information collections.

5. Small Businesses:

As of 2022, there were 467 MCOs, 162 PIHPs or PAHPs, 21 non-emergency transportation PAHPs, and 26 PCCM entities participating in the Medicaid managed care program. Research on publicly available records for the entities allowed us to determine that only a few of these entities qualify as small entities. Specifically, we believe that approximately 14 – 25 of these plans may be small entities. We have determined that there is no significant economic impact on a substantial number of small entities for the requirements in section 12 of this Supporting Statement.

6. Less Frequent Collection:

Many of the information collection requirements that are set out below under section 12 are mandated by the BBA. If CMS were to collect them less frequently, we would be in violation of the law. While others are not required by statute, we believe them necessary for program administration and have set them at frequencies as low as possible. None of the respondents are required to report information more often than quarterly.

7. Special Circumstances:

There are no special circumstances. More specifically, this information collection does not do any of the following:

- Require respondents to report information to the agency more often than quarterly;
- Require respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
- Require respondents to submit more than an original and two copies of any document;
- Require respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;
- Is connected with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study,
- Require the use of a statistical data classification that has not been reviewed and approved by OMB;
- Includes a pledge of confidentiality that is not supported by authority established in statute or regulation that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
- Require respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

8. Federal Register Notice/Outside Consultation:

Serving as the 60-day notice, the proposed rule (CMS-2439-P; RIN 0938-AU99) published in the Federal Register on May 3, 2023 (88 FR 28092). The NPRM did not receive any PRA-related comments.

Based on public comment, the proposed amendment to § 438.8(k) was not finalized and the related burden Estimate 12.5b of 3,774 hours and \$332,011 was removed. Additionally, the proposed amendment to § 438.74, had two estimated burdens -Estimate 12.65b and 12.65c. Estimates for 12.65b are listed below under Section 438.74 for State Oversight of the MLR requirement. The amendment associated with Estimate 12.65c was not finalized and the related burden estimates of 172 hours (43 States x 4 hr) and \$13,292 were removed.

As the rule's collection of information request was not posted for public review, we have addressed that oversight by publishing a standalone 60-day notice in the Federal Register on August 28, 2023 (88 FR 58588). We did not receive any comments on the standalone 60-day notice.

The final rule published in the Federal Register on May 10, 2024 (89 FR 41002).

9. Payment/Gift to Respondent:

There is no payment/gift to respondents.

10. Confidentiality:

The information received by CMS is not confidential and its release would fall under the Freedom of Information Act.

11. Sensitive Questions:

There are no sensitive questions associated with this collection. Specifically, the collection does not solicit questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

12. Collection of Information Requirements and Associated Burden Estimates:

The regulatory sections that support this collection of information's requirements are set out in 42 CFR part 438 (Managed Care). The requirements and burden follow.

12.1 *Wage Estimates*

To derive average costs, we used data from the U.S. Bureau of Labor Statistics' May 2022 National Occupational Employment and Wage Estimates ([http://www.bls.gov/oes/2022/may/oes\\_nat.htm](http://www.bls.gov/oes/2022/may/oes_nat.htm)). In this regard, the following table presents BLS' mean hourly wage, our estimated cost of fringe benefits and other indirect costs, and our adjusted hourly wage. The same 2022 wage data was used in our CMS-2439-F final rule.

National Occupation Titles and Wage Rates

Occupation Title	Occupation Code	Mean Hourly Wage (\$/hr)	Fringe Benefits and Other Indirect Costs (\$/hr)	Adjusted Hourly Wage (\$/hr)
Accountant	13-2011	41.70	41.70	83.40
Actuary	15-2011	61.34	61.34	122.68
Business Operations Specialist, All Other	13-1199	39.75	39.75	79.50
General and Operations Manager	11-1021	59.07	59.07	118.14
Office Clerk, General	43-9061	19.78	19.78	39.56
Software and web developers, programmers, and testers	15-1250	60.07	60.07	120.14

As indicated, we are adjusting our employee hourly wage estimates by a factor of 100 percent. This is necessarily a rough adjustment, both because fringe benefits and other indirect costs vary significantly from employer to employer, and because methods of estimating these costs vary widely from study to study. Nonetheless, we believe that doubling the hourly wage to estimate total cost is a reasonably accurate estimation method.

12.2 *Collection of Information Requirements and Associated Burden Estimates*

**Subpart A-General Provisions**

Subpart A specifies requirements for states and managed care plans including contract requirements and payment.

#### Section 438.3 Standard contract requirements

The amendments to §§ 438.3(i) will require that MCOs, PIHPs, and PAHPs report provider incentive payments based on standard metrics for provider performance. The amendments to § 438.8(e)(2) will define the provider incentive payments that could be included in the MLR calculation; however, the administrative burden for these changes is attributable to the managed care contracting process, so we are attributing these costs to the contracting requirements in § 438.3(i). Approximately 315 MCO, PIHP, and PAHP contracts will require modification to reflect these changes. For the contract modifications, we estimate it will take 2 hours at \$79.50/hr for a business operations specialist and 1 hour at \$118.14/hr for a general operations manager. In aggregate for Medicaid for § 438.3(i), we estimate a one-time State burden of 945 hours (315 contracts x 3 hr) at a cost of \$87,299 [315 contracts x ((2 hr x \$79.50/hr) + (1 hr x \$118.14/hr))]. As this will be a one-time requirement, we annualize our time and cost estimates to 315 hours (945 hr/3 yr) and \$29,100 (\$87,299/3 yr). The annualization divides our estimates by 3 years to reflect OMB's likely approval period. We are annualizing the one-time burden estimates since we do not anticipate any additional burden after the 3-year approval period expires.

#### **(ESTIMATE 12.1g)**

To report provider incentive payment based on standard metrics, MCOs, PIHP, and PAHPs will need to select standard metrics, develop appropriate payment arrangements, and then modify the affected providers' contracts. We estimate it will take 120 hours consisting of 80 hours x \$79.50/hr for a business operations specialist and 40 hours x \$118.14/hr for a general and operations manager. In aggregate for Medicaid for § 438.3(i), we estimate a one-time private sector burden of 37,800 hours (315 contracts x 120 hr) at a cost of \$3,491,964 [315 contracts x ((80 hr x \$79.50/hr) + (40 hr x \$118.14/hr))]. As this will be a one-time requirement, we annualize our time and cost estimates to 12,600 hours and \$1,163,988. The annualization divides our estimates by 3 years to reflect OMB's likely approval period. We are annualizing the one-time burden estimates since we do not anticipate any additional burden after the 3-year approval period expires. **(ESTIMATE 12.1h)**

#### Section 438.6 Special Contract Provisions Related to Payment

The amendments to § 438.6(c)(2) will require all SDP expenditures under paragraphs (c)(1)(i) and (ii) and (c)(1)(iii)(C) through (E) (that is, the SDPs that require prior written approval under this final rule) to be submitted and have written approval by CMS prior to implementation. We estimate that 38 States will submit 50 new SDP proposals for minimum/maximum fee schedules, value-based payment, or uniform fee increases. To complete a new preprint, we estimate that it will take 2 hours at \$122.68/hr for an actuary, 6 hours at \$79.50/hr for a business operations specialist, and 2 hours at \$118.14/hr for a general and operations manager for development and submission. We estimate an annual State burden of 500 hours (50 proposals x 10 hr) at a cost of \$47,932 [50 proposals x ((2 hr x \$122.68/hr) + (6 hr x \$79.50/hr) + (2 hr x \$118.14/hr))].

#### **(ESTIMATE 12.70)**

Thereafter, we estimate that 38 States will submit 150 renewal or amendment proposals per year. To make revisions to an existing preprint, we estimate it will take 1 hour at \$79.50/hr for a

business operations specialist, 1 hour at \$122.68/hr for an actuary, and 1 hour at \$118.14/hr for a general and operations manager for any proposal updates or renewals. In aggregate, we estimate an annual State burden of 450 hours (150 proposals x 3 hr) and \$48,048 [150 renewal/amendment proposals x ((1 hr x \$79.50/hr) + (1 hr x \$118.14/hr) + (1 hr x 122.68/hr))]. **(ESTIMATE 12.70a)**

The amendments to § 438.6(c)(2)(iii) will require that all SDPs subject to prior approval under paragraphs (c)(1)(i) through (iii) for inpatient hospital services, outpatient hospital services, nursing facility services, and qualified practitioner services at an academic medical center, include a written analysis, showing that the total payment for such services does not exceed the average commercial rate. We estimate that 38 States will develop and submit 60 of these SDPs that include a written analysis to CMS. We also estimate it will take 6 hours at \$122.68/hr for an actuary, 3 hours at \$118.14/hr for a general and operations manager, and 6 hours at \$120.14/hr for a software and web developers, programmers and testers for each analysis. In aggregate we estimate a one-time State burden of 900 hours (60 SDPs x 15 hr) and at a cost of \$108,680 [60 certifications x ((6 hr x \$122.68/hr) + (3 hr x \$118.14/hr) + (6 hr x \$120.14/hr))]. As this will be a requirement to update once every 3 years, we annualize our time and cost estimates to 300 hours and \$36,227. The annualization divides our estimates by 3 years to reflect OMB's likely approval period. **(ESTIMATE 12.70b)**

Section 438.6(c)(2)(iv) will require that SDPs under paragraphs (c)(1)(i) and (ii) and (c)(1)(iii) (C) through (E) must prepare and submit a written evaluation plan to CMS. The evaluation plan must include specific components under this proposal and is intended to measure the effectiveness of those State directed payments in advancing at least one of the goals and objectives in the quality strategy on an annual basis and whether specific performance targets are met. We estimate that 38 States will submit 50 written evaluation plans for new proposals. We also estimate it will take 5 hours at \$120.14/hour for a software and web developers, programmers and testers, 2.5 hours at \$118.14/hr for a general and operations manager, and 2.5 hours at \$79.50/hr for a business operations specialist for each new evaluation plan. In aggregate, we estimate an annual State burden of 500 hours (50 evaluation plans x 10 hr) and at a cost of \$54,741 [50 evaluation plans x ((5 hr x 120.14/hr) + (2.5 hr x \$118.14) + (2.5 hr x \$79.50/hr))]. **(ESTIMATE 12.70c)**

Thereafter, we estimate that 38 States will prepare and submit 150 written evaluation plans for amendment and renewal proposals. We also estimate it will take 2 hours at \$120.14/hr for a software and web developers, programmers and testers, 2 hours at \$118.14/hr for a general and operations manager and 2 hours at \$79.50/hr for a business operations specialist for each evaluation plan amendment and renewal. In aggregate we estimate an annual State burden of 900 hours (150 evaluation plans x 6 hr) at a cost of \$95,334 [150 evaluation plans x ((2 hr x 120.14/hr) + (2 hr x \$118.14) + (2 hr x \$79.50/hr))]. **(ESTIMATE 12.70d)**

Section 438.6(c)(2)(v) will require for all SDPs under paragraphs (c)(1)(i) and (ii) and (c)(1)(iii) (C) through (E) that have an actual Medicaid managed care spending percentage greater than 1.5 must complete and submit an evaluation report using the approved evaluation plan to demonstrate whether the SDP results in achievement of the State goals and objectives in alignment with the State's evaluation plan. Section 438.6(c)(2)(ii)(F) also requires that States provide evaluation reports to CMS, upon request, that demonstrate whether the SDP results in

achievement of the State goals and objectives in alignment with the State's evaluation plan. We estimate 38 States will submit 57 evaluation reports. We also estimate it will take 3 hours at \$120.14/hr for a software and web developers, programmers, and testers, 1 hour at \$118.14/hour for a general and operations manager, and 2 hours at \$79.50/hr for a business operations specialist for each report. In aggregate we estimate an annual State burden of 342 hours (57 reports x 6 hr) at a cost of \$36,341 [57reports x ((3 hr x \$120.14/hr) + (1 hr x \$118.14/hr) + (2 hr x \$79.50hr)]. **(ESTIMATE 12.70e)**

Section 438.6(c)(7) will require States to submit a final SDP cost percentage as a separate actuarial report concurrently with the rate certification only if a State wishes to demonstrate that the final SDP cost percentage is below 1.5 percent. We anticipate that 10 States will need: 5 hours at \$122.68/hr for an actuary, 5 hours at \$120.14/hr for a software and web developers, programmers and testers, and 7 hours at \$79.50/hr for a business operations specialist. In aggregate, we estimate an annual State burden of 170 hours (17 hr x 10 States) at a cost of \$17,706 (10 States x [(5 hr x \$122.68/hr) + (5 hr x \$120.14/hr) + (7 hr x \$79.50/hr)]). **(ESTIMATE 12.70f)**

#### Section 438.7 Rate certification submission

Amendments to § 438.7 set out revisions to the submission and documentation requirements for all managed care actuarial rate certifications. The certification will be reviewed and approved by CMS concurrently with the corresponding contract(s). We estimate that 44 States will develop 253 certifications at 250 hours for each certification. Of the 250 hours, we estimate that it will take 110 hours at \$122.68/hr for an actuary, 15 hours at \$118.14/hr for a general and operations manager, 53 hours at \$120.14/hr for a software and web developers, programmers and testers, 52 hours at \$79.50/hr for a business operations specialist, and 20 hours at \$39.56/hr for an office and administrative support worker. In aggregate we estimate an annual State burden of 63,250 hours (250 hr x 253 certifications) at a cost of \$6,719,559 [253 certifications x ((110 hr x \$122.68/hr) + (15 hr x \$118.14/hr) + (53 hr x \$120.14/hr) + (52 hr x \$79.50/hr) + (20 hr x \$39.56/hr))]. **(ESTIMATE 12.3c)**

#### Section 438.8 Medical loss ratio standards

Amendments to § 438.8 will require that MCOs, PIHPs, and PAHPs report to the State annually their total expenditures on all claims and non-claims related activities, premium revenue, the calculated MLR, and, if applicable, any remittance owed. We estimate that MCOs, PIHPs, and PAHPs were required to submit 629 MLR reports to States based on 629 Medicaid contracts. All MCOs, PIHPs, and PAHPs need to report the information. The amendments to § 438.8(k)(1)(vii) will require that MCOs, PIHPs, and PAHPs develop their annual MLR reports compliant with the proposed expense allocation methodology.<sup>2</sup> To meet this requirement we anticipate it will take: 1 hr at \$83.40/hr for an accountant, 1 hr at \$79.50/hr for a business operations specialist, and 1 hr at \$118.14/hr for a general operations manager. In aggregate for Medicaid for § 438.8(k)(1)(vii), we estimate an annual private sector burden of 1,887 hours (629 contracts x 3 hr) at a cost of \$176,775 [629 contracts x ((1 hr x \$83.40/hr) + (1 hr x \$79.50/hr) + (1 hr x \$118.14/hr))]. **(ESTIMATE 12.5c)**

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<sup>2</sup> Methodology(ies) for allocation of expenditures as described at 45 CFR 158.170(b).

To do the annual reconciliations needed to make the incentive payments (438.3(i)) and include the expenditures in their annual report required by 438.8(k), we estimate MCOs, PIHPs, and PAHPs will take 1 hour at \$79.50/hr for a business operations specialist. In aggregate for Medicaid we estimate an annual private sector burden of 315 hours (315 contracts x 1 hr) at a cost of \$25,043 (315 contracts x 1 hr x \$79.50/hr). **(ESTIMATE 12.5a)**

#### Section 438.10 Information Requirements

Amendments to § 438.10(c)(3) will require States to operate a website that provides the information required in § 438.10(f). We are estimating 45 States will need to revise their current websites. We are finalizing that States must include required information on one page, use clear labeling, and verify correct functioning and accurate content at least quarterly. We anticipate it will take 20 hours at \$120.14/hr once for a software and web developers, programmers, and testers to place all required information on one page and ensure the use of clear and easy to understand labels on documents and links. In aggregate for Medicaid, we estimate a one-time State burden of 900 hours (45 States x 20 hr) at a cost of \$108,126 (900 hr x \$120.14/hr). As this will be a one-time requirement, we annualize our time and cost estimates to 300 hours and \$36,042. **(ESTIMATE 12.6c)**

We also anticipate that it will take 40 hours at \$120.14/hr for a software and web developers, programmers, and testers to periodically add content and verify the function of the site at least quarterly (10 hours/quarter). In aggregate for Medicaid, we estimate an annual State burden of 1,800 hours (45 States x 40 hr) at a cost of \$216,252 (1,800 hr x \$120.14/hr). **(ESTIMATE 12.6d)**

#### Section 438.16 In Lieu of Services and Settings

The provisions at § 438.16 will require States that provide ILOSs, with the exception of short term IMD stays, to comply with additional information collection requirements. Currently, 44 States utilize MCOs, PIHPs and PAHPs in Medicaid managed care programs. We do not have current data readily available on the number of States that utilize ILOSs and the types of ILOSs in Medicaid managed care, but we believe it is reasonable to estimate that half of the States with MCOs, PIHPs and PAHPs (22 States) may choose to provide non-IMD ILOSs.

The provision at § 438.16(c)(4)(i) will require States to submit a projected ILOS cost percentage to CMS as part of the rate certification. The burden for this proposal is accounted for in ICR #2 (above) for § 438.7 Rate Certifications.

The provision at § 438.16(c)(5)(ii) will require States to submit a final ILOS cost percentage and summary of actual MCO, PIHP and PAHP ILOS costs as a separate actuarial report concurrently with the rate certification. We anticipate that 22 States will need 5 hours at \$122.68/hr for an actuary, 5 hours at \$120.14/hr for a software and web developers, programmers and testers, and 7 hours at \$79.50/hr for a business operations specialist. In aggregate for Medicaid, we estimate an annual State burden of 374 hours (17 hr x 22 States) at a cost of \$38,953 (22 States x [(5 hr x \$122.68/hr) + (5 hr x \$120.14/hr) + (7 hr x \$79.50/hr)]). **(ESTIMATE 12.66a)**

The provision at § 438.16(d)(1) will require States that elect to use ILOS to include additional documentation requirements in their managed care plan contracts. We anticipate that 22 States will need 1 hour at \$79.50/hr for a business operations specialist to amend 327 Medicaid MCO,

PIHP, and PAHP contracts annually. In aggregate for § 438.16(d)(1), we estimated an annual State burden of 327 hours (327 contracts x 1 hr) at a cost of \$25,997 (327 hr x \$79.50/hr). **(ESTIMATE 12.66b)**

The provision at § 438.16(d)(2) will require some States to provide to CMS additional documentation to describe the process and supporting data the State used to determine each ILOS to be a medically appropriate and cost-effective substitute. This additional documentation will be required for States with a projected ILOS cost percentage greater than 1.5 percent. We anticipate that approximately 5 States may be required to submit this additional documentation. We estimate it will take 2 hours at \$79.50/hr for a business operations specialist to provide this documentation. In aggregate for Medicaid for § 438.16(d)(2), we estimated an annual State burden of 10 hours (5 States x 2 hr) at a cost of \$795 (10 hr x \$79.50/hr). In aggregate for CHIP for § 457.1201(e) we estimate the same annual State burden of 10 hours (5 States x 2 hr) at a cost of \$795 (10 hr x \$79.50/hr). **(ESTIMATE 12.66c)**

The provision at § 438.16(e)(1) will require States with a final ILOS cost percentage greater than 1.5 percent to submit an evaluation for ILOSs to CMS. We anticipate that approximately 5 States may be required to develop and submit an evaluation. We estimate it will take 25 hours at \$79.50/hr for a business operations specialist. In aggregate for Medicaid for § 438.16(e)(1), we estimated an annual State burden of 125 hours (5 States x 25 hr) at a cost of \$9,938 (125 hr x \$79.50/hr). **(ESTIMATE 12.66d)**

The provision at § 438.16(e)(2)(iii) will require States to develop an ILOS transition of care policy if an ILOS is terminated by either a State, a managed care plan, or by CMS. We believe all States with non-IMD ILOSs should proactively prepare a transition of care policy in case an ILOS is terminated. We estimate both a one-time burden and an annual burden for these provisions. We believe there is a higher one-time burden as all States that currently provide non-IMD ILOSs will need to comply with this proposed requirement by the applicability date, and an annual burden is estimated for States on an on-going basis. We estimate for a one-time burden, it will take: 2 hours at \$120.14/hr for a software and web developers, programmers and testers and 2 hours at \$79.50/hr for a business and operations specialist for initial development of a transition of care policy. In aggregate for Medicaid for § 438.16(e)(2)(iii), we estimate a one-time State burden 88 hours (22 States x 4 hr) at a cost of \$8,784 (22 States x [(2 hr x \$120.14/hr) + (2 hr x \$79.50/hr)]). As this will be a one-time requirement, we annualized our time and cost estimates to 30 hours and \$2,928. The annualization divides our estimates by three (3) years to reflect OMB's likely approval period. We are annualizing the one-time burden estimates since we do not anticipate any additional burden after the 3-year approval period expires. **(ESTIMATE 12.66e)**

For updates to reflect specific ILOSs, we also estimate that this proposed ILOS transition of care policy will have an annual burden of 1 hour at \$79.50/hr for a business operations specialist per State. In aggregate for Medicaid for § 438.16(e)(2)(iii), we estimate an annual State burden of 22 hours (22 States x 1 hr) at a cost of \$1,749 (22 hr x \$79.50/hr). **(ESTIMATE 12.66f)**

For MCOs, PIHPs, or PAHPs that will need to implement a transition policy when an ILOS is terminated, we estimate that on an annual basis, 20 percent of managed care plans (65 plans)

may need to implement this policy. We estimate an annual managed care plan burden of 2 hours at \$79.50/hr for a business operations specialist to implement the policy. In aggregate for Medicaid for § 438.16(e)(2)(iii)(B) we estimate an annual burden of 130 hours (65 plans x 2 hr) at a cost of \$10,335 (130 hr x \$79.50/hr). **(ESTIMATE 12.66g)**

### **Subpart B-State Responsibilities**

Subpart B specifies requirements for states in the design and operation of their managed care programs.

#### Section 438.66 State monitoring requirements

Amendments to § 438.66(c) will require States to conduct, or contract for, an enrollee experience survey annually. We believe most, if not all, States will use a contractor for this task and base our burden estimates on that assumption. In the first year, for procurement, contract implementation and management, and analysis of results, we estimate 85 hours at \$79.50/hr for a business operations specialist and 25 hours at \$118.14/hr for general operations manager. In aggregate for § 438.66(c), we estimate a one-time State burden of 5,390 hours (49 States x 110 hr) at a cost of \$475,840 (49 States x [(85 hr x \$79.50/hr) + (25 hr x \$118.14)]). As this will be a one-time requirement, we annualize our time and cost estimates to 1,796 hours and \$158,614. The annualization divides our estimates by three (3) years to reflect OMB's likely approval period. We are annualizing the one-time burden estimates since we do not anticipate any additional burden after the 3-year approval period expires. **(ESTIMATE 12.26a)**

In subsequent years, for contract management and analysis of experience survey results, we estimate 50 hours at \$79.50/hr for a business operations specialist and 15 hours at \$118.14/hr for general operations manager. In aggregate, we estimated an annual State burden of 3,185 hr (49 States x 65 hr) at a cost of \$281,608 (49 States x [(50 hr x \$79.50/hr) + (15 hr x \$118.14/hr)]). **(ESTIMATE 12.26b)**

Amendments to § 438.66(e)(1) and (2) will require that States submit an annual program assessment report to CMS covering the topics listed in § 438.66(e)(2). The data collected for § 438.66(b) and the utilization of the data in § 438.66(c), including reporting as proposed in § 438.16, will be used to complete the report. We anticipate it will take 80 hours at \$79.50/hr for a business operations specialist to compile and submit this report to CMS. In aggregate, we estimate an annual State burden of 3,920 hours (49 States x 80 hr) at a cost of \$311,640 (3,920 hr x \$79.50/hr). **(ESTIMATE 12.26c)**

#### Section 438.68 Network adequacy standards

Section 438.68(e) will require States with MCO, PIHP, and PAHPs to develop appointment wait time standards for four provider types. We anticipate it will take 20 hours at \$79.50/hr for a business operations specialist for development of the appointment wait time standards. In aggregate for Medicaid for § 438.68(e), we estimate a one-time State burden of 880 hours (44 States x 20 hr) at a cost of \$69,960 (880 hr x \$79.50/hr). As this will be a one-time requirement, we annualize our one-time burden estimates to 293 hours and \$23,320. The annualization divides our one-time by 3 years to reflect OMB's likely approval period. We are annualizing the one-

time burden estimates since we do not anticipate any additional burden after the 3-year approval period expires. **(ESTIMATE 12.67)**

Additionally, we anticipate it will take 10 hours at \$79.50/hr a business operations specialist for ongoing enforcement of all network adequacy standards. We anticipate it will take: 10 hours at \$79.50/hr for a business operations specialist for ongoing enforcement. In aggregate for Medicaid for § 438.68(e), we anticipate an annual State burden of 440 hours (44 States x 10 hr) at a cost of \$34,980 (440 hr x \$79.50/hr). **(ESTIMATE 12.67)**

Amendment to § 438.68(f) will require States with MCO, PIHPs, or PAHPs to contract with an independent vendor to perform secret shopper surveys of plan compliance with appointment wait times and accuracy of provider directories and send directory inaccuracies to the State within three days of discovery. In the first year, for procurement, contract implementation, and management, we anticipate it will take: 85 hours at \$79.50/hr for a business operations specialist and 25 hours at \$118.14/hr for general operations manager. In aggregate for Medicaid for § 438.68(f), we estimate a one-time State burden of 4,840 hours (44 States x 110 hr) at a cost of \$427,284 (44 States x [(85 hr x \$79.50/hr) + (25 hr x \$118.14/hr)]). As this will be a one-time requirement, we annualize our time and cost estimates to 1,614 hours and \$142,428. In aggregate for CHIP for § 457.1218, we estimate a one-time State burden of 3,520 hours (32 States x 110 hr) at a cost of \$310,752 (32 States x [(85 hr x \$79.50/hr) + (25 hr x \$118.14/hr)]). As this will be a one-time requirement, we annualize our time and cost estimates to 1,173 hours and \$103,584. The annualization divides our estimates by three (3) years to reflect OMB's likely approval period. We are annualizing the one-time burden estimates since we do not anticipate any additional burden after the 3-year approval period expires. **(ESTIMATE 12.67a)**

In subsequent years, for contract management and analysis of results, we anticipate it will take 50 hours at \$79.50/hr for a business operations specialist and 15 hours at \$118.14/hr for general operations manager. In aggregate for Medicaid for § 438.68(f), we estimate an annual State burden of 2,860 hours (44 States x 65 hr) at a cost of \$252,872 (44 States x [(50 hr x \$79.50/hr) + (15 hr x \$118.14)]). **(ESTIMATE 12.67b)**

#### Section 438.74 State Oversight of the MLR requirement

The amendment to § 438.74 will require States to comply with data aggregation requirements for their annual reports to CMS. We estimate that only 5 States will need to resubmit MLR reports to comply with the proposed data aggregation changes. We anticipate that it will take 5 hours x \$79.50/hr for a business operations specialist. In aggregate, for Medicaid for § 438.74, we estimate a one-time State burden of 25 hours (5 States x 5 hr) at a cost of \$1,988 (5 States x 5 hr x \$79.50/hr). As this will be a one-time requirement, we annualize our time and cost estimates to 8 hours (25 hr/3 yr) and \$663 (\$1,988/3 yr). The annualization divides our estimates by three (3) years to reflect OMB's likely approval period. We are annualizing the one-time burden estimates since we do not anticipate any additional burden after the 3-year approval period expires. **(ESTIMATE 12.65b)**

### **Subpart D-MCO, PIHP and PAHP Standards**

Subpart D specifies requirements for managed care plans in a managed care program including for access to services and data collection and reporting.

### Section 438.207 Assurance of adequate capacity and services

The amendments to § 438.207(b) will require MCOs, PIHPs, and PAHPs to submit documentation to the State of their compliance with § 438.207(a). As we add a reimbursement analysis at § 438.207(b)(3), we estimate a one-time plan burden of: 50 hours at \$79.50/hr for a business operations specialist, 20 hours at \$118.14/hr for a general operations manager, and 80 hours at \$120.14/hr for software and web developers, programmers and testers. In aggregate for Medicaid for § 438.207(b), we estimate a one-time private sector burden of 94,350 hours (629 MCO, PIHPs, and PAHPs x 150 hr) at a cost of \$10,031,921 (629 MCOs, PIHPs, and PAHPs x [(50 hr x \$79.50/hr) + (20 hr x \$118.14/hr) + (80 hr x \$120.14/hr)]). As this will be a one-time requirement, we annualize our time and cost estimates to 31,449 hours and \$3,343,974. The annualization divides our estimates by three (3) years to reflect OMB's likely approval period. We are annualizing the one-time burden estimates since we do not anticipate any additional burden after the 3-year approval period expires. **(ESTIMATE 12.34d)**

For ongoing analyses and submission of information that will be required by amendments to § 438.207(b), we estimate it will take: 20 hours at \$79.50/hr for a business operations specialist, 5 hours at \$118.14/hr for a general operations manager, and 20 hours at \$120.14/hr for software and web developers, programmers and testers. In aggregate for Medicaid, we estimate a one-time private sector burden of 28,305 hours (629 MCO, PIHPs, and PAHPs x 45 hr) at a cost of \$2,883,021 (629 MCO, PIHPs, and PAHPs x [(20 hr x \$79.50/hr) + (5 hr x \$118.14/hr) + (20 hr x \$120.14/hr)]). **(ESTIMATE 12.34e)**

Amendments to §§ 438.207(d) will require States to submit an assurance of compliance to CMS that their MCOs, PIHPs, and PAHPs meet the State's requirements for availability of services. The submission to CMS must include documentation of an analysis by the State that supports the assurance of the adequacy of the network for each contracted MCO, PIHP or PAHP and the accessibility of covered services. By including the requirements in this rule at §§ 438.68(f) and 438.208(b)(3), we anticipate it will take 40 hours at \$79.50/hr for a business operations specialist. Although States may need to submit a revision to this report at other times during a year (specified at § 438.207(c)), we believed these submissions will be infrequent and require minimal updating to the template; therefore, the burden estimated here is inclusive of occasional revisions. In aggregate for Medicaid, we estimate an annual State burden of 1,760 hours (44 States x 40 hr) at a cost of \$139,920 (1,760 hr x \$79.50/hr). **(ESTIMATE 12.34e)**

### **Subpart H- Additional Program Integrity Standards**

#### Section 438.608 Program integrity requirements under the contract

The amendment to § 438.608 will require States to update all MCO, PIHP, and PAHP contracts to require managed care plans to report overpayments to the State within 10 business days of identifying or recovering an overpayment. State within 30 calendar days of identifying or recovering an overpayment. We estimate that the changes to the timing of overpayment reporting (from timeframes that varied by State to 30 calendar days for all States) will apply to all MCO, PIHP, and PAHP contracts, excluding contracts for NEMT, that is, a total of 629 contracts for MCO, PIHP, and PAHP contracts. We estimate it will take: 2 hours at \$79.50/hr for a business operations specialist and 1 hour at \$118.14/hr for a general and operations manager to modify State contracts with plans. In aggregate for Medicaid for § 438.608, we estimate a one-time State

burden of 1,887 hours (629 contracts x 3 hr) at a cost of \$174,321 [629 contracts x ((2 hr x \$79.50/hr) + (1 hr x \$118.14/hr))]. . **(ESTIMATE 12.57a)**

We also estimate that it will take MCOs, PIHPs, and PAHPs 1 hour at \$120.14/hr for software and web developers, programmers, and testers to update systems and processes already used to meet the previous requirement for “prompt” reporting. In aggregate for Medicaid for § 438.608, we estimate a one-time private sector burden of 629 hours (629 contracts x 1 hr) at a cost of \$75,568 (629 hr x \$120.14/hr). As this will be a one-time requirement, we annualize our cost estimates to \$25,189. The annualization divides our estimates by three (3) years to reflect OMB’s likely approval period. We are annualizing the one-time burden estimate since we do not anticipate any additional burden after the 3-year approval period expires. **(ESTIMATE 12.57b)**

### 12.3 Burden Summary

Summary of Annual Burden Estimates: State Government  
(Response Type: R=reporting; RK=recordkeeping; TPD=third-party disclosure)

Estimate #	CFR section	# of Respondents	Total # of Responses	Time per Response (hours)	Total Time (hours)	Labor Rate (\$/hr)	Total Annual Cost (\$)	Response Type	Frequency
12.70	438.6(c)(2)(ii) New SDP submissions	38	150	Varies	500	Varies	47,932	R	Annual
12.70a	438.6(c)(2)(ii) Renewal/Amend SDP	38	150	Varies	450	Varies	48,048	R	Annual
12.70b	438.6(c)(2)(iii) Specific SDPs and ACR rate	38	60	Varies	900	Varies	108,680	R	Once
12.70c	438.6(c)(2)(iv) SDP written eval plan	38	50	Varies	500	Varies	54,741	R	Annual
12.70d	438.6(c)(2)(iv) Eval plan for amendment and renewal	38	150	Varies	900	Varies	95,334	R	Annual
12.70e	438.6(c)(2)(v) Eval report spending greater than 1.5 percent	38	57	Varies	342	Varies	36,341	R	Annual
12.70f	438.6(c)(7) Final SDP cost percentage actuarial report with rate certification	10	10	Varies	170	Varies	17,706	R	Annual
12.3c	438.7(b) Rate certifications	44	253	Varies	63,250	Varies	6,719,559	R	Annual
12.66a	438.16(c)(5)(ii) ILOS reporting	22	22	Varies	374	Varies	38,953	R	Annual
12.66b	438.16(d)(1) Documentation requirements	22	327	1	327	79.50	25,997	R	Annual
12.66c	438.16(d)(2) Documentation requirements	5	5	2	10	79.50	795	R	Annual
12.66d	438.16(e)(1) Monitoring, Evaluation, and Oversight	5	5	25	125	79.50	9,938	R	Annual
12.66e	438.16(e)(2)(iii) Monitoring, Evaluation, and Oversight	22	22	Varies	88	Varies	8,784	R	Once
12.66f	438.16(e)(2)(iii) Monitoring, Evaluation, and Oversight	22	22	1	22	79.50	1,749	R	Annual
12.66g	438.16(e)(2)(iii) Monitoring, Evaluation, and Oversight	22	65	2	130	79.50	10,335	R	Annual

Estimate #	CFR section	# of Respondents	Total # of Responses	Time per Response (hours)	Total Time (hours)	Labor Rate (\$/hr)	Total Annual Cost (\$)	Response Type	Frequency
12.26a	438.66(c) Monitoring requirements	49	49	Varies	5,390	Varies	475,840	R	Once
12.26b	438.66(c) Monitoring requirements	49	49	Varies	3,185	Varies	281,608	R	Annual
12.26c	438.66(e) Monitoring requirements	49	49	80	3,920	79.50	311,640	R	Annual
12.67	438.68(e) Appointment wait time standards	44	44	30	880	79.50	69,960	R	Once
12.67	438.68(e) ongoing enforcement for network adequacy standards	44	44	10	440	79.50	34,980	R	Annual
12.67a	438.68(f) Secret shopper surveys	44	44	Varies	4,840	Varies	427,284	R	Once
12.67b	438.68(f) Secret shopper surveys	44	44	Varies	2,860	Varies	252,872	R	Annual
12.65b	438.74 State oversight of MLR	5	5	5	25	79.50	1,988	R	Once
12.34e	438.207(d) State assurance	44	44	40	1,760	79.50	139,920	R	Annual
12.57a	438.608(a)(2) Administrative and management arrangements or procedures to detect and prevent fraud, waste, and abuse	43	629	Varies	1,887	Varies	174,321	R	Once
12.57b	438.608(a)(2) Administrative and management arrangements or procedures to detect and prevent fraud, waste, and abuse	43	629	1	629	120.14	75,568	R	Once
	<i>Subtotal Reporting</i>	49	2,978	Varies	93,904	Varies	9,470,873	R	Varies
12.1g	438.3(i) Physician incentive plans	43	315	Varies	945	Varies	87,299	TPD	Once
12.6c	438.10(c)(3) Website	45	45	20	900	120.14	108,126	TPD	Once
12.6d	438.10(c)(3) Periodic updates to website	45	45	40	1800	120.14	216,252	TPD	Annual
	<i>Subtotal Third Party Disclosure</i>	45	405	Varies	3,645	Varies	411,677	TPD	Varies
	<b>TOTAL</b>	<b>49</b>	<b>3,383</b>	<b>varies</b>	<b>97,549</b>	<b>varies</b>	<b>9,882,550</b>	<b>varies</b>	<b>varies</b>

Summary of Annual Burden Estimates: Private Sector  
(Response Type: R=reporting; RK=recordkeeping; TPD=third-party disclosure)

Estimate #	CFR section	# of Respondents	Total # of Responses	Time per Response (hours)	Total Time (hours)	Labor Rate (\$/hr)	Total Annual Cost (\$)	Response Type	Frequency
12.1h	438.3(i) Physician incentive plans	315	315	Varies	37,800	Varies	3,491,964	TPD	Once
	<i>Subtotal Third Party Disclosure</i>	<i>315</i>	<i>315</i>	<i>Varies</i>	<i>37,800</i>	<i>Varies</i>	<i>3,491,964</i>	<i>TPD</i>	<i>Varies</i>
12.5a	438.8(k) Reporting Requirements	315	315	1	315	79.50	25,043	R	Annual
12.5c	438.8(k) MLR reporting requirements	315	629	Varies	1,887	Varies	176,775	R	Annual
12.34d	438.207(b)(3) Amendments Supporting documentation	629	629	Varies	94,350	Varies	10,031,921	R	Once
12.34e	438.207(b)(3) Ongoing supporting documentation	629	629	Varies	28,305	Varies	2,883,021	R	Annual
	<i>Subtotal Reporting</i>	<i>629</i>	<i>2,202</i>	<i>Varies</i>	<i>124,857</i>	<i>Varies</i>	<i>13,116,760</i>	<i>R</i>	<i>Varies</i>
	<b>TOTAL</b>	<b>629</b>	<b>2,517</b>	<b>Varies</b>	<b>162,657</b>	<b>Varies</b>	<b>16,608,724</b>	<b>Varies</b>	<b>Varies</b>

Summary of Annual Burden Estimates: Total

Respondent Type	Respondents	Total Responses	Burden per Response (hr)	Total Annual Time (hr)	Labor Rate (\$/hr)	Total Annual Cost (\$)
State	49	3,383	Varies	97,549	Varies	9,882,550
Private Sector	629	2,517	Varies	162,657	Varies	16,608,724
<b>TOTAL</b>	<b>678</b>	<b>5,900</b>	<b>Varies</b>	<b>260,206</b>	<b>Varies</b>	<b>26,491,274</b>

*12.4 Collection of Information Instruments and Instruction/Guidance Documents*

None.

13. Capital Costs (Maintenance of Capital Costs):

There are no capital costs.

14. Cost to Federal Government:

For the revisions in part 438, we applied a weighted FMAP of 58.44 percent (weighted for enrollment) to estimate the state share of private sector costs. This was done to account for state and private sector costs that are passed to the federal government through the managed care capitation rates. For the provisions contained in section 12 of this supporting statement, the annualized cost to the federal government is \$15,481,501 (26,491,274 x 0.5844).

15. Program and Burden Changes:

This is a new collection of information request. In this regard, there are no changes to what is currently approved by OMB.

16. Publication and Tabulation Dates:

The majority of information submitted to CMS will not be published by CMS. Rather, that information is reviewed as part of the agency's normal oversight activity of State Medicaid managed care programs. The majority of the information collection is undertaken by States. Accordingly, States are responsible for ensuring that information collected is not manipulated and erroneously published. Much of the information (e.g., the information requirements under § 438.10) is provided directly to beneficiaries by the States, MCOs, PIHPs, PAHPs, PCCMs, or PCCM entities. Some information must be published on a state or managed care plan website, while the rest of the information is used by States as part of their normal contracting with, and monitoring of, their MCOs PIHPs, PAHPs, PCCMs, and PCCM entities and is not be published.

17. Expiration Date:

The expiration date and PRA Disclosure Statement are displayed.

18. Certification Statement:

There are no exceptions to the certification statement.

**B. Collection of Information Employing Statistical Methods**

There are no statistical methods.