Supporting Statement for Program Integrity: Exchange, Premium Stabilization Programs, and Market Standards; Amendments to the HHS Notice of Benefit and Payment Parameters for 2014;

(CMS-10516/OMB control number: 0938-1277)

A. Background

On March 23, 2010, the Patient Protection and Affordable Care Act (PPACA; P.L. 111-148) was signed into law and on March 30, 2010, the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152) was signed into law. The two laws implement various health insurance policies. On June 19, 2013, the Department of Health and Human Services (HHS) published proposed rule CMS-9957-P: *Program Integrity: Exchanges, SHOP, Premium Stabilization Programs, and Market Standards* (78 FR 37302) (Program Integrity Proposed Rule) which, among other things, contained third party disclosure requirements and data collections that supported the oversight of premium stabilization programs, State Exchanges, and qualified health plan (QHP) issuers in Federally-facilitated Exchanges (FFEs). Parts of the proposed rule were finalized as *Patient Protection and Affordable Care Act; Program Integrity: Exchange, Premium Stabilization Programs, and Market Standards; Amendments to the HHS Notice of Benefit and Payment Parameters for 2014; Final Rule* (Program Integrity Final Rule II), 78 FR 25326 (October 24, 2013). This ICR relates to a portion of the information collection request (ICR) requirements set forth in the final rule.

B. Justification

1. Need and Legal Basis

The Program Integrity Final Rule II, 78 FR 25326, among other things, provides for the oversight of health insurance issuers to protect consumers and the financial integrity of the FFEs. The oversight includes ensuring compliance with Marketplace requirements, such as the maintenance of records requirement and by participation in investigations and compliance reviews. This ICR deals with the burdens on issuers that undergo HHS compliance reviews pursuant to 156 C.F.R. 156.715(a), performed to ensure ongoing compliance with Exchange standards applicable to issuers offering QHPs in a FFE, consistent with the Program Integrity Final Rule II. It also details burdens related maintenance of records for HHS review under 156 C.F. R. 156.705, to enforcement remedies under 156 C.F.R. Subpart I for non-compliance with FFE standards, and to administrative review of enforcements sanctions under 156 C.F.R. Subpart J.

2. Information Users

The Program Integrity data collections and third-party disclosure requirements assist HHS in determining Exchange compliance with Federal standards and in monitoring QHP issuers in FFEs for compliance with Federal QHP issuer standards. The data collected by health insurance issuers and Exchanges inform HHS, Exchanges, and health insurance issuers as to the participation of individuals, employers, and employees in the individual Exchange, and in Small Business Health Options Program (SHOP).

3. Use of Information Technology

The majority of the information that is required for this ICR is submitted electronically. HHS staff analyzes and reviews the data in the same manner by which they were submitted and communicates with States, health insurance issuers, and other entities using e-mail, telephone, or other electronic means.

4. Duplication of Efforts

This information collection does not duplicate any other Federal effort.

5. Small Businesses

This information collection does not have a significant impact on small business.

6. Less Frequent Collection

Due to the required flow of information between multiple parties and flow of funds for payments for health insurance coverage within the Exchange, it is necessary to collect information according to the indicated frequencies. If the information is collected less frequently, the result would be less accurate, untimely or unavailable eligibility, enrollment or payment information for Exchanges, insurers, employers, and individuals. This would lead to delayed payments to insurers; late charges to or payments by employers and enrollees; the release of misleading information regarding health care coverage to potential enrollees; and an overall stress on the organizational structure of the Exchanges.

7. Special Circumstances

Maintenance of records requirements are found in 45 CFR 156.705, which requires States and QHP issuers in FFEs to maintain records for a time period of ten years. This time frame is necessary for HHS to be consistent with the statute of limitations under the False Claims Act and the record retention requirements set forth in 45 CFR 153.620(b).

Section 156.905 provides respondents with the right to request a hearing if the request complies with §156.907 within 30 days after the date of issuance of either HHS's notice of proposed assessment under §156.805, notice of decertification of a QHP under §156.810(c) or §156.810(d). The timeline is necessary to provide entities with the protections provided by the Administrative Procedure Act, 5 U.S.C. 554 and 556.

8. Federal Register/Outside Consultation

The 60-day notice was published in the Federal Register on July 2, 2024 (89 FR 54824) for the public to submit written comment on the information collection requirements. No public comments were received.

The 30-day will be published in the Federal Register on September 24, 2024 (89 FR 77865) for the public to submit written comment on the information collection requirements.

HHS consulted with stakeholders regarding the requirements in this information collection and based many of the requirements in this information collection on those consultations. HHS consulted with stakeholders through regular meetings with the National Association of Insurance Commissioners

(NAIC), regular contact with States through the Exchange grant process, and meetings with other stakeholders including consumer advocates, employers, agents, brokers, and other interested parties.

9. Payments/Gifts to Respondents

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

10. Confidentiality

All information collected will be kept private in accordance with regulations at 45 C.F.R. 155.260, Privacy and Security of Personally Identifiable Information. Pursuant to this regulation, Marketplaces may only use or disclose personally identifiable information to the extent that such information is necessary to carry out their statutorily and regulatorily mandated functions.

11. Sensitive Questions

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

12. Burden Estimates (Hours & Wages)

We used the Bureau of Labor Statistics (BLS), Occupational Employment and Wage Statistics, May 2023 (https://www.bls.gov/oes/current/oes_stru.htm) to estimate the burden (including 100 percent fringe benefits) for this information collection. For a description of the median hourly wages for the labor categories see Table 1.

Table 1: Adjusted Hourly Wages Used in Burden Estimates

Occupational Title	Occupational Code	Median Hourly Wage ($/hour)	Fringe Benefits and Overhead (100%)($/hour)	Adjusted Hourly Wage ($/hour)
Actuary	15-2011	$57.69	$57.69	$115.38
Network Administrator	15-1244	$45.84	$45.84	$91.68
Compliance Officer	13-1041	$36.38	$36.38	$72.76
General and Operations (Senior) Manager	11-1021	$48.69	$48.69	$97.38
Health Policy Analyst	15-2031	$40.21	$40.21	$80.42
Attorney	23-1011	$70.08	$70.08	$140.16

The following sections of this document contain estimates of burden imposed by the associated information collection requirements; however, not all of these estimates are subject to the data collection requirements under the PRA for the reasons noted.

Oversight and Standards for Issuers of Qualified Health Plans in the Federally-facilitated Exchange (§156.705 to §156.715): The burden estimates for §§156.705 and 156.715 reflect that the FFEs include 382 QHP issuers. We update the number of issuers in the FFEs from the original estimated number to reflect more current information on the number of issuers expected to participate in the FFEs. The burden estimate is based on HHS estimates of the labor costs related to

maintaining these records; issuers already have the records associated with this provision. Additionally, HHS does not specify the technology issuers choose to use to maintain these records. Therefore, HHS will not provide issuers with a standardized collection instrument for issuers to submit this information.

Section 156.705 provides that issuers offering QHPs in an FFE must maintain all documents and records (whether paper, electronic or other media), and other evidence of accounting procedures and practices necessary for HHS to conduct activities necessary to safeguard the financial and programmatic integrity of the FFEs.

Such activities include: (1) periodic auditing of the QHP issuer's financial records, including data related to the QHP issuer's ability to bear the risk of potential financial losses; and (2) compliance reviews and other monitoring of a QHP issuer's compliance with all Exchange standards applicable to issuers offering QHPs in the FFEs listed in part 156. The burden includes utilizing existing technology and systems to process and maintain this information. This reflects 60 hours of work by an actuary (at $115.38 an hour), 15 hours by a network administrator (at $91.68 an hour), 15 hours by a compliance officer (at $72.76 an hour), and 10 hours for a senior manager to review (at $97.38 an hour). The total estimated burden per QHP issuer to maintain these records is 100 hours at a cost of $10,363.20. For all QHP issuers, the total estimated burden is 38,200 hours at a cost of $3,958,742.40.

Pursuant to 45 C.F.R. §§156.705 and 156.715, QHP issuers must maintain records for HHS review. Table 2 displays the burden for issuers relating to the regulatory provision.

Table 2: Burden to QHP Issuers to Maintain Records

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)
Actuary	382	$115.38	60	$6,922.80	$2,644,509.60
Network Administrator	382	$91.68	15	$1,375.20	$525,326.40
Compliance Officer	382	$72.76	15	$1,091.40	$416,914.80
Senior Manager	382	$97.38	10	$973.80	$371,991.60
Total			**100**	**$10,363.20**	**$3,958,742.40**

Section 156.705(d) provides that QHP issuers must make all records described in paragraph (a) of this section available to HHS, the OIG, the Comptroller General, or their designees, upon request. In estimating the annual hour and cost burden on QHP issuers of making these records available to such authorities upon request, we assumed that such requests would normally be made in connection with a formal audit or compliance review or a similar process. Our burden estimates for this section address the hour and cost burden of making records available to HHS, the OIG, the Comptroller General, or their designees, for audit. Our estimates reflect our assumptions that up to 30 QHP issuers would be subject to a formal audit in a given year and that the burden on issuers of making the records available would include the time, effort, and associated cost of compiling the

information, reviewing it for completeness, submitting it to the auditor(s), and participating in telephone or in-person interviews. We anticipate using a risk-based approach to selection of the majority of QHP issuers for compliance review so that burdens to the issuer community would generally be linked to the QHP issuers' risk. This reflects 75 hours of work by an actuary (at $115.38 an hour), 10 hours by a compliance officer (at $72.76 an hour), and 5 hours for a senior manager to review (at $97.38 an hour). The total estimated burden per QHP issuer to make its records available for an audit is 90 hours at a cost of $9,868.00. For all QHP issuers, the total estimated burden is 2,700 hours at a cost of $296,040.00.

Pursuant to 45 C.F.R. §156.705(d), QHP issuers must make records available to HHS, the OIG, the Comptroller General, or their designees for audit. Table 3 displays the burden for issuers relating to the regulatory provision.

Table 3: Burden to QHP Issuers to Make Records Available for Audit

Labor Category	Number of Respondents	Hourly Labor Costs (Hourly rate + 100% Fringe benefits)	Burden Hours (per Respondent)	Total Burden Costs (per Respondent)	Total Burden Costs (All Respondents)
Actuary	30	$115.38	75	$8,653.50	$259,605.00
Compliance Officer	30	$72.76	10	$727.60	$21,828.00
Senior Manager	30	$97.38	5	$486.90	$14,607.00
Total			**90**	**$9,868.00**	**$296,040.00**

Section 156.715 establishes the general standard that QHP issuers are subject to compliance reviews. Our burden estimates for §156.715 address the estimated annual hour and cost burden on QHP issuers of complying with the records disclosure requirements associated with compliance reviews conducted by an FFE. We assume that HHS will conduct desk reviews of 21 QHP issuers each year. For each QHP issuer desk review we estimate an average of 40 hours of administrative work to assemble the requested information by a health policy analyst (at $80.42 an hour), 19.5 hours to review the information for completeness and an additional 30 minutes for a compliance officer to submit the information to HHS for a total of 32 hours (at $72.76 an hour). There will also be an additional 10 hours to spend on phone interviews conducted by the compliance officer and 2 hours to spend speaking through processes with the compliance officer (at $72.76 an hour). The total estimated burden per QHP issuer to make information available to HHS for a desk review is 72 hours at a cost of $5,545.12. For all QHP issuers, the total estimated burden is 1,512 hours at a cost of $116,447.52.

Pursuant to 45 C.F.R. §156.715, QHP issuers must make information available to HHS for compliance review. Table 4 displays the burden for issuers relating to the regulatory provision.

Table 4: Burden to QHP Issuers to Provide Information for Compliance Review

Labor Category	Number of Respondents	Hourly Labor Costs (Hourly rate + 100% Fringe benefits)	Burden Hours (per Respondent)	Total Burden Costs (per Respondent)	Total Burden Costs (All Respondents)
Health Policy Analyst	21	$80.42	40	$3,216.80	$67,552.80
Compliance Officer	21	$72.76	32	$2,328.32	$48,894.72
Total			**72**	**$5,545.12**	**$116,447.52**

We assume that HHS will conduct onsite reviews of 3 QHP issuers each year. For each onsite review we estimate it will take an average of 40 hours for a health policy analyst (at $80.42 an hour) to assemble the requested information, and 19.5 hours for a compliance officer (at $72.76 an hour) to review the information for completeness and 30 minutes to submit the information to HHS in preparation for an onsite review. An onsite review requires an additional 2 hours to schedule the onsite activities with the compliance officer (at $72.76 an hour), 4 hours for an introductory meeting, 8 hours to tour reviewers onsite, 10 hours of interview time, 2 hours to walk through processes with the reviewer, and 4 hours for concluding meetings. This is a total of approximately 60 hours of preparation time and an additional 30 hours for onsite time for each QHP. The total estimated burden per QHP issuer to make information available to HHS for an onsite review is 90 hours at a cost of $6,854.80. For all QHP issuers, the total estimated burden is 270 hours at a cost of $20,564.40.

Pursuant to 45 C.F.R. §156.715, QHP issuers must make information available to HHS for onsite review. Table 5 displays the burden for issuers relating to the regulatory provision.

Table 5: Burden to QHP Issuers to Provide Information for Onsite Review

Labor Category	Number of Respondents	Hourly Labor Costs (Hourly rate + 100% Fringe benefits)	Burden Hours (per Respondent)	Total Burden Costs (per Respondent)	Total Burden Costs (All Respondents)
Health Policy Analyst	3	$80.42	40	$3,216.80	$9,650.40
Compliance Officer	3	$72.76	50	$3,638.00	$10,914.00
Total			**90**	**$6,854.80**	**$20,564.40**

HHS may require further information or clarification after reviewing the information provided by the issuer under 45 C.F.R. §156.715. Table 6 displays the burden for issuers for providing clarifying information under the regulatory provision. The total estimated burden per QHP issuer to provide further information or clarification to HHS is 2 hours at a cost of $145.52. For all QHP issuers, the total estimated burden is 30 hours at a cost of $2,182.80.

Table 6: Burden to QHP Issuers in Cases in which HHS Requires Clarification

Labor Category	Number of Respondents	Hourly Labor Costs (Hourly rate + 100% Fringe benefits)	Burden Hours (per Respondent)	Total Burden Costs (per Respondent)	Total Burden Costs (All Respondents)
Compliance Officer	15	$72.76	2	$145.52	$2,182.80
Total			**2**	**$145.52**	**$2,182.80**

Administrative Review of QHP Issuer Sanctions in a Federally-facilitated Exchange (§156.901 to §156.963): We base our burden estimate on the assumptions that one issuer will be subject to a CMP and that one issuer will have a QHP that it offers in an FFE decertified. We assume that the issuer in each case will choose to exercise its right to a hearing and will submit a valid request for a hearing. The hours involved in preparing this request may vary; for the purpose of this burden estimate we estimate an average of 24 hours will be needed: 10 hours for the compliance officer to gather and assemble the necessary background materials described under §156.907, and prepare the written request (at $72.76 an hour), 12 hours for an attorney (at $140.16 an hour) to review the background materials and written request and provide recommendations to the senior manager, and 2 hours for the senior manager (at $97.38 an hour) to discuss and act upon the attorney's recommendations and submit the written request. The total estimated burden for an issuer to prepare and submit a request for a hearing is 24 hours at a cost of $2,604.28. This estimate includes any statement of good cause under §156.805(e)(3) or request for extension under §156.905(b), if applicable.

Pursuant to 45 C.F.R. §156.907, a QHP issuer submitting a request for a hearing must gather and assemble necessary background materials. In addition, an issuer may submit a statement of good cause under §156.805(e)(3) or request for extension under §156.905(b). Table 7 displays the burden for issuers relating to the regulatory provision.

Table 7: Burden to QHP Issuers to Submit a Request for Hearing

Labor Category	Number of Respondents	Hourly Labor Costs (Hourly rate + 100% Fringe benefits)	Burden Hours (per Respondent)	Total Burden Costs (per Respondent)	Total Burden Costs (All Respondents)
Compliance Officer	1	$72.76	10	$727.60	$727.60
Attorney	1	$140.16	12	$1,681.92	$1,681.92
Senior Manager	1	$97.38	2	$194.76	$194.76
Total			**24**	**$2,604.28**	**$2,604.28**

Pursuant to 45 C.F.R. §156.330, if a QHP issuer that offers one or more QHPs in a Federally-facilitated Exchange undergoes a change of ownership as recognized by the State in which the issuer offers the QHP, they are required to notify HHS. Issuers must provide the legal name and tax identification number of the new owner of the QHP and the effective date of the change of

ownership to HHS within 30 days of the effective date. We estimate 5 QHP issuers will report change of ownership. The total estimated burden per QHP issuer to report change of ownership is 7 hours at a cost of $708.68. For all QHP issuers, the total estimated burden is 35 hours at a cost of $3,543.40. Table 8 displays the estimated burden for issuers relating to the regulatory provision.

Table 8: Burden to a QHP Issuer for Change of Ownership

Labor Category	Number of Respondents	Hourly Labor Costs (Hourly rate + 100% Fringe benefits)	Burden Hours (per Respondent)	Total Burden Costs (per Respondent)	Total Burden Costs (All Respondents)
Health Policy Analyst	5	$80.42	2	$160.84	$804.20
Attorney	5	$140.16	2	$280.32	$1,401.60
Compliance Officer	5	$72.76	1	$72.76	$363.80
Senior Manager	5	$97.38	2	$194.76	$973.80
Total			**7**	**$708.68**	**$3,543.40**

The aggregate annual cost across all respondents is $4,400,124.80. The total burden hours is 42,771 hours. Table 9 provides a summary of the annual burden estimates in this package.

Table 9: Summary of Total Annual Burden

Table Number: Name	CFR Section	Burden Hours	Burden Cost
Table 2: Burden to QHP Issuers to Maintain Records	45 C.F.R. §§156.705 and 156.715	38,200	$3,958,742.40
Table 3: Burden to QHP Issuers to Make Records Available for Audit	45 C.F.R. §156.705(d)	2,700	$296,040.00
Table 4: Burden to QHP Issuers to Provide Information for Compliance Review	45 C.F.R. §156.715	1,512	$116,447.52
Table 5: Burden to QHP Issuers to Provide Information for Onsite Review	45 C.F.R. §156.715	270	$20,564.40
Table 6: Burden to QHP Issuers in Cases in which HHS Requires Clarification	45 C.F.R. §156.715	30	$2,182.80
Table 7: Burden to QHP Issuers to Submit a Request for Hearing	45 C.F.R. §156.907, §156.805(e)(3), and §156.905(b)	24	$2,604.28
Table 8: Burden to QHP Issuers for Change of Ownership	45 C.F.R. §156.330	35	$3,543.40
Total		**42,771**	**$4,400,124.80**

13. Capital Costs

There are no capital costs associated with these information collections.

14. Cost to Federal Government

The burden to the Federal government for maintaining the systems and policies associated with this information collection is $306,800.00. The calculations for HHS employees' hourly salary was obtained from the OPM website: https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/24Tables/html/GS_h.aspx

Table 10: Administrative Burden Costs for the Federal Government Associated with the Program Integrity NPRM

Task	Estimated Cost
Program Integrity Information Collections	
2GS-13 (step 1): 2 x $84.82[1] x 1,500 hours	$254,460.00
Technical Assistance to States	
2GS-13 (step 1): 2 x $84.82[1] x 100 hours	$16,964.00
Managerial Review and Oversight	
2 GS-15 (step 1): 2 x $117.92[1] x 150 hours	$35,376.00
Total Costs to Government	**$306,800.00**

[1] Hourly basic rate + 100% fringe benefit rate.

15. Changes to Burden

There is an overall increase in the financial burden from the 2021 PRA package because of an increase in the number of QHP issuers from 433 to 457, an increase of 24 issuers. The total burden hours increased from 40,455 hours to 42,771, an increase of 2,316 hours. The estimated annual cost increased from $4,219,357.10 to $4,400,124.80, an increase of $180,767.70. All prior iterations of wage data was based on mean values and the current iteration is based on median values.

16. Publication/Tabulation Dates

This data is not made public because a large portion of the issuer compliance reviews deals with the business operations and trade (commercial/financial) information for these issuers. Making this information public might potentially release confidential business information about the issuers.

17. Expiration Date

There are no instruments associated with this data collection.

18. Certification Statement

There are no exceptions to the certification statement.