

Agent/Broker Consent Information Collection (0938-1438)
60-Day Public Comment Response Summary (Ended 12/09/2024)

Comment Type	Comment Summary	Response
Burden	We received comments stating we should not mandate audio recording of enrollments and should not require agents or brokers to use our scripts.	We agree with commenters that audio recording of enrollments and the use of our scripts should not be mandatory. Our proposal to update the model consent form merely adds to the already existing model consent form and does not impose any new requirements. We proposed to add a section to meet the requirements for consumer review and attestation of their eligibility application information. We also proposed to add sections providing scripts that agents or brokers may use to meet both the consent documentation and consumer review and attestation of their eligibility application information. Use of the updated model consent form would remain voluntary. Nothing in our proposal suggests that using the model consent form is mandatory, we are just trying to provide more guidance on meeting the requirements established by the 2024 Payment Notice. Furthermore, we are not changing our policy that an agent, broker, or web-broker may use any method they wish to meet the consent documentation requirement and eligibility application information review requirements, provided the regulatory minimums are captured.¹ Audio recording of enrollments is not being required under this proposal.

¹ See 155.220(j)(2)(iii)(B) and 155.220(j)(2)(ii)(A)(1).

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Burden	Numerous commenters expressed concern that this proposal would impose heavy burdens on agents/brokers, especially small agents/agencies. Commenters stated that agents/brokers would have less time to spend with each consumer, people would be deterred from enrolling, and agents/brokers would be deterred from participating in the Marketplace.	We do not agree with commenters that this proposal will require an agent/broker to spend more time with each consumer, that smaller agents or agencies will be impacted more severely, or that agents, brokers, or consumers will stop participating in the Marketplace. The proposal to update the model consent form investigate does not involve a regulatory change or add requirements to the enrollment process. The proposal expands the model consent form to include means to meet requirements that were established in the 2024 Payment Notice. Namely, the requirement to document the consumer reviewed and confirmed their eligibility application information. The proposal also provides scripts an agent, broker, or web-broker may utilize to meet these requirements, along with the consent documentation requirements, if working with a consumer via a spoken method. The requirements established in the 2024 Payment Notice remain in effect and are unchanged. Therefore, we do not anticipate any new burden associated with the updated model consent form and use of this form will remain optional. Additionally, consumer enrollment in the Marketplace has increased after CMS implemented the documentation requirements that commenters appear to reference. Plan Year 2024 saw over 21 million individuals select a Marketplace plan, up from just over 16 million individuals in Plan Year 2023.² There are also over 70,000 agents and brokers registered and licensed to assist with enrolling in Marketplace insurance.³

² <https://www.hhs.gov/about/news/2024/01/24/historic-21-million-people-choose-aca-marketplace-coverage.html>

³ [https://kffhealthnews.org/news/article/aca-marketplace-ssn-social-security-numbers- agents/#:~:text=There%20are%20about%2070%2C000%20licensed,AP%20Photo/Alex%20Brandon\)](https://kffhealthnews.org/news/article/aca-marketplace-ssn-social-security-numbers- agents/#:~:text=There%20are%20about%2070%2C000%20licensed,AP%20Photo/Alex%20Brandon))