Supporting Statement Part A for QHP Issuers Best Practices for Plan Year 2027 Agent and Broker Oversight
(CMS-10993/OMB control number: 0938-NEW)

A. Background

Section 1312(e) of the Affordable Care Act directs the Secretary of the Department of Health and Human Services (HHS) to establish procedures under which a State may permit agents and brokers (ABs) to enroll qualified individuals and employers into qualified health plans (QHPs) offered through an Exchange and to enable these ABs to assist individuals in applying for advance payments of the premium tax credit and cost-sharing reductions.

The authority to collect information from QHP issuers pertaining to ABs and associated enrollments comes from 45 CFR § 155.220(c)(5), which states that "HHS or its designee may periodically monitor and audit an agent, broker, or web-broker under this subpart to assess its compliance with the applicable requirements of this section." Further authority for collection of this information comes from §§ 156.705 and 156.715, which describe QHP issuer maintenance of records and compliance review requirements. This is a voluntary information collection. This information collection specifically details what information CMS recommends that QHP issuers should collect and maintain on a regular basis.

In the guidance titled "***Best Practices for Issuers for Plan Year 2027 Agent and Broker Oversight,"***[1] we recommended that QHP issuers on the Federally-facilitated Exchange, including on State-based Exchanges using the Federal platform (SBE-FPs) (collectively referred to as the FFE), direct their appointed ABs to record their calls with consumers starting this Plan Year 2027 (PY 2027) Open Enrollment and continuing throughout PY 2027. Specifically, the Centers for Medicare & Medicaid Services (CMS) recommends QHP issuers direct appointed ABs to maintain their recordings for 10 years in a form and manner that can be provided to the issuer or CMS upon request.

We believe this aligns QHP issuer enrollment interaction recording with other CMS programs, such as Medicare Advantage, and existing AB requirements. We estimate there would be minimal costs and time associated with this recommendation, as ABs are already required to document and maintain eligibility application review documentation information and consumer consent documentation information under § 155.220(j)(2)(ii) and (iii). However, we calculate the submission of call recordings (e.g., audio files) to QHP issuers as well as annual cloud storage costs for ABs to maintain these files.

Also in the aforementioned guidance, we recommended that QHP issuers on the FFE regularly evaluate their enrollment records for patterns that may indicate AB noncompliance or misconduct, including by investigating appointed ABs with disproportionately high rates of open Data Matching Issues (DMIs). Especially during Open Enrollment, QHP issuers are encouraged to frequently review, and initiate timely and appropriate action against, ABs associated with disproportionally high rates of enrollments with open DMIs. This could include suspending commission payments and terminating appointments for those ABs, when appropriate. It is also

[1] https://www.cms.gov/files/document/py27-issuer-ab-oversight-guidance.pdf.

recommended that QHP issuers report those results to CMS on a monthly basis. While the aforementioned guidance indicated that CMS would offer a standardized template for this voluntary reporting, no such template is being provided at this time. QHP issuers are encouraged to report these results in a manner and form that they deem most accessible, low-burden, and appropriate.

This voluntary information collection covers:

- QHP issuers directing ABs to record all calls with consumers, retain these recordings for 10 years, and furnish these recordings upon request to the QHP issuer or CMS (to include revisions to contracts or other internal documents as necessary);
- ABs recording calls with consumers, retaining recordings for 10 years, and furnishing the recordings upon request to QHP issuers or CMS;
- QHP issuers obtaining information regarding potential AB noncompliance or misconduct through systematic evaluation of enrollment records for patterns that may indicate such noncompliance or misconduct; and
- QHP issuers reporting the finding of such systematic evaluations to CMS on a monthly basis.

B. Justification

1. Need and Legal Basis

Section 1312(e) of the Affordable Care Act directs the Secretary of HHS to establish procedures under which a State may permit ABs to enroll qualified individuals and employers in QHPs offered through an Exchange and assist individuals in applying for advance payments of the premium tax credit and cost-sharing reductions. The aforementioned guidance provides recommendations for QHP issuer oversight of AB conduct to protect consumers and the financial integrity of the FFEs. This oversight includes ensuring compliance with Exchange requirements, such as the maintenance of records requirement, and participating in investigations and compliance reviews. This Information Collection Request (ICR) deals with the burdens on issuers that undergo HHS compliance reviews pursuant to § 156.715(a), performed to ensure ongoing compliance with Exchange standards applicable to issuers offering QHPs in the FFEs.

2. Information Users

These data collections and third-party disclosure requirements assist CMS and State insurance regulators or oversight agencies 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 and performance of ABs (i.e., meeting all requirements to be a registered AB and in good standing) and other individuals in the FFEs.

3. Use of Information Technology

The information under this collection is submitted electronically. CMS staff analyzes and reviews the data in the same manner by which they were submitted and communicates with

States, State insurance regulators or oversight agencies, health insurance issuers, and other entities using e-mail, telephone, or other electronic means, such as videoconference.

4. Duplication of Efforts

This information collection does not duplicate any other Federal effort.

5. Small Businesses

We do not believe that there are any QHP issuers that are small businesses. However, we are aware that some ABs are small businesses and that they will incur costs related to this collection as estimated in the Burden Estimates and Capital Costs below. We attempted to minimize the burden to the greatest extent possible but believe that this collection is necessary without distinction as to the size of the AB to facilitate compliance with our regulations and fraud reduction. Further, we believe that most of the burden is part of routine business practices that ABs of varying sizes already conduct. For example, we are aware that a sizeable number of ABs already record their calls and have procured technology to do so as part of their own quality improvement initiatives.

6. Less Frequent Collection

Due to the required flow of information between multiple parties and flow of enrollment and funds for payments for health insurance coverage within the Exchange, it is necessary to collect information according to the indicated frequency, which is on a monthly basis. If the information is collected less frequently, the result would be less timely oversight of enrollment that could lead to less accurate eligibility, enrollment, or payment information for Exchanges, insurers, employers, and individuals.

7. Special Circumstances

Maintenance of records requirements are found in § 156.705, which requires States and QHP issuers in FFEs to maintain records for a time frame of 10 years. This time frame is necessary for CMS to be consistent with the statute of limitations under the False Claims Act (31 U.S.C. § 3731(b)(2)).

8. Federal Register/Outside Consultation

This is an emergency approval request. Public comment solicitation will be sought when the Agency solicits comments via the required 60-day and 30-day Federal Register notice periods, as part of the non-emergency approval process.

9. Payments/Gifts to Respondents

No payments and/or gifts will be provided to respondents. Respondents will be compliant with the aforementioned guidance if they are responsive.

10. Confidentiality

All information collected will be kept private in accordance with regulations at 45 CFR § 155.260, Privacy and Security of Personally Identifiable Information (PII). Pursuant to this regulation, Exchanges may only use or disclose PII 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 2025 (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)
Insurance Claims and Policy Processing Clerks	43-9041	$23.67	$23.67	$47.34
Health Policy Analyst	13-1199	$39.93	$39.93	$79.86
Computer Programmer	15-1251	$48.26	$48.26	$96.52
Senior Manager	11-1021	$50.85	$50.85	$101.70
Operations Analyst	15-2031	$42.76	$42.76	$85.52
Compliance Officer	13-1041	$38.81	$38.81	$76.62

Part 1: Exchange Consumer Call Recordings

CMS recommends two actions pertaining to QHP issuers and ABs within the aforementioned guidance related to call recordings that have ICR implications:

1. QHP issuers and ABs recording enrollment calls with Exchange consumers; and
2. QHP issuers and ABs maintaining these recordings in a form and manner such that they can be provided to the QHP issuer or CMS upon request.

The first action, recording PY 2027 consumer calls, involves QHP issuers requiring their appointed ABs to record calls with new and existing Exchange consumers to capture interactions involving plan comparison and selection, enrollment, and sales and marketing. We believe the

burden associated with this requirement would be the time and effort to amend the contract and operating procedures that govern the QHP issuers' appointed ABs. We believe that the time, effort, and financial resources to comply with the information collection requirements would be incurred by persons in the normal course of their activities and therefore considered to be usual and customary business practice.

We further believe that the costs associated with providing the recording to the QHP issuer or CMS are highly variable for each respondent. We recognize that ABs may already record some consumer conversations for internal quality assurance or to fulfill the requirements of § 155.220(j)(2)(ii) and (iii) related to eligibility application review and consumer consent documentation requirements. A significant share of respondents may have an existing mechanism for collecting, storing, and maintaining audio recordings and would incur no cost. We chose to overestimate the impact in order to account for all plausible burden. If the QHP issuer or CMS requests the recording as part of an investigation into compliance of the AB, we anticipate that the recordings will be turned over as evidence in response to the request.

According to our records, in PY 2026, there were 84,012 total registered ABs with active enrollments in the FFEs that completed the FFE training and were registered to assist consumers on the Exchanges. We estimate that no more than 10% (or 8,401) of these ABs would be required to submit audio recordings to a QHP issuer or CMS annually based on our experience in identifying suspicious AB enrollment patterns and conducting AB compliance investigations. QHP issuers may provide this in an email submission to the QHP issuer's CMS account manager, if requested. We estimate this will take 1 hour annually per AB, for a total of 8,401 hours across all ABs.

The second action, maintaining enrollment calls for 10 years, aligns with existing Exchange recordkeeping requirements for QHP issuers. We expect that QHP issuers will maintain this information in an electronic data system. The burden estimate associated with this requirement includes the time and effort needed to program the issuer's electronic data system to retain this information. We estimate that 366 QHP issuers (i.e., all QHP issuers participating on HealthCare.gov in PY 2026) will be subject to this requirement. As such, we estimate that it will take approximately 30 hours annually for the time and effort to maintain the records for each QHP issuer, for a total of 10,980 hours across all QHP issuers in the FFEs.

TABLE 2: Burden to QHP Issuers for Recommended Call Recordings

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)
Insurance Claims and Policy Processing Clerks	366	$47.34	5	$236.70	$86,632.20

Health Policy Analyst	366	$79.86	5	$399.30	$146,143.80
Computer Programmer	366	$96.52	20	$1,930.40	$706,526.40
Total			**30**	**$2,594.70**	**$939,302.40**

TABLE 3: Burden to ABs for Recommended Call Recordings

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)
Insurance Claims and Policy Processing Clerks	8,401	$47.34	1	$47.34	$397,703.34
Total			**1**	**$47.34**	**$397,703.34**

Part 2: Suspected Unauthorized Enrollments and AB Investigations Reporting

CMS recommends two actions pertaining to ABs and suspected unauthorized enrollments within the aforementioned guidance that have ICR implications:

1. QHP issuers promptly review enrollments associated with any AB found to be significantly noncompliant, investigate whether the enrollments are appropriate, and if suspected to be unauthorized, report those policies to CMS through the issuer-identified Unauthorized Enrollment process; and
2. QHP issuers review appointed ABs associated with patterns that suggest noncompliance or misconduct, initiate timely and appropriate action, generally within one month of action initiation, against ABs found to be noncompliant with CMS requirements, and report monthly to CMS on the status of those AB investigations.

The first action, reviewing and reporting suspected unauthorized enrollments associated with ABs to CMS, is covered by the Establishment of Exchanges and Qualified Health Plans; Exchange Standards for Employers PRA package (CMS-10592/OMB Control Number 0938-1341, expiration date: April 30, 2027). This PRA package discusses the burden associated with the enrollment reconciliation process authorized by §§ 155.400(d) and 156.265(f), which state that QHP issuers and Exchanges must reconcile enrollment files with the Exchange. This PRA package describes the process for doing so, as follows:

> At least monthly, issuers and the FFE will exchange enrollment and financial data files to verify the integrity of the enrollment transaction processing and resulting records. The

FFE employs an automated monthly reconciliation process comparing certain data fields with issuer data.

Reconciliation ensures that QHP issuers and the Exchanges have equivalent information. Accurate enrollment information allows CMS to make correct payments for advance payment of the premium tax credits and cost-sharing reductions, and to assess FFE user fees. It also prevents multiple enrollments by one individual and ensures that the data used for analytics and metrics are accurate. We expect that QHP issuers will develop an electronic data system to house the enrollment information. We estimate that 302 QHP issuers will participate in the Exchanges and will be subject to this requirement. As such we estimate that it will take 228 hours for a QHP issuer to reconcile information on a monthly basis.

Reporting on enrollments suspected to be unauthorized through the Unauthorized Enrollment process, as recommended by CMS in the aforementioned guidance, is part of the enrollment reconciliation process described in §§ 155.400(d) and 156.265(f), because CMS has operationalized the Unauthorized Enrollment process via the monthly enrollment reconciliation process. Specifically, in the aforementioned guidance, CMS recommends that QHP issuers promptly and regularly – generally each month – evaluate their enrollment records for patterns that may indicate AB noncompliance or misconduct. These evaluations should include reviewing records on open DMIs provided by CMS. CMS also recommends that QHP issuers promptly review enrollments associated with any AB found to be significantly noncompliant, investigate whether the enrollments are appropriate, and if suspected to be unauthorized, report those policies to CMS through the issuer-identified Unauthorized Enrollment process. Therefore, because these actions are considered to be part of the enrollment reconciliation process, the burden associated with the first action listed in the paragraph above is already approved in the current PRA package with OMB control number 0938-1341 for 302 QHP issuers.

Because we have more recent PY 2026 data since the PRA package with OMB control number 0938-1341 was approved by OMB in 2024, we are increasing the burden in this PRA package as follows to account for an estimated 366 issuers that may comply with our recommendations in the aforementioned guidance, as well as updated wage rates as referenced in Table 1.

Table 4: Annual Burden to QHP Issuers for Recommended Unauthorized Enrollment Reporting

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	366	$79.86	60	$4,791.60	$1,753,725.60
Senior Manager	366	$101.70	24	$2,440.80	$893,332.80

Operations Analyst	366	$85.52	60	$5,131.20	$1,878,019.20
Computer Programmer	366	$76.62	84	$6,436.08	$2,355,605.28
Total			**228**	**$18,799.68**	**$6,880,682.88**

The currently approved burden is 228 hours per year per QHP issuer for 302 issuers, representing a total of 68,856 hours with an associated cost of $5,886,535. Because we are increasing the number of respondents in accordance with more recent PY 2026 data to 366 QHP issuers, although the burden per issuer remains the same, this now represents a total burden of 83,448 hours (an increase of 14,592 total hours) with an associated cost (using updated wage rates) of $6,880,682.88 (an increase of $994,147.88).

The second action, reporting monthly to CMS on the status of issuers' AB investigations, is related to and augments burden already approved under the Program Integrity: Exchange, Premium Stabilization Programs, and Market Standards; Amendments to the HHS Notice of Benefit and Payment Parameters for 2014; Final Rule II PRA package (CMS-10516/OMB Control Number 0938-1277, expiration date: April 30, 2028). That PRA package includes information collection burden pertaining to §§ 156.705 and 156.715, which authorize CMS to require QHP issuers in the FFE to maintain records necessary for HHS to conduct activities necessary to safeguard the financial and programmatic integrity of the FFE, including compliance reviews and other monitoring of a QHP issuer's compliance with all Exchange standards applicable to issuers offering QHPs in the FFE listed in 45 CFR part 156.

The current PRA package with OMB control number 0938-1277 already accounts for the burden for 382 QHP issuers on the FFE to maintain records necessary for HHS to conduct compliance reviews or otherwise monitor QHP issuers' compliance with all Exchange standards applicable to QHP issuers in part 156 for the required 10-year period. It reads as follows (using prior wage rates available at the time of that PRA package's submission to OMB):

> 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.
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> 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.

However, the current PRA package with OMB control number 0938-1277 does not account for the burden for QHP issuers to collate certain information regarding their AB investigations and transmit that information to CMS once per month, in accordance with the recommendation in the aforementioned guidance document. CMS anticipates that QHP issuers could submit the following illustrative but non-exhaustive types of information to CMS if they take this recommended action: Name of AB, identifier such as National Producer Number, summary of issuer's investigation into AB (including findings), and summary of results and actions taken. Therefore, we anticipate that QHP issuers will incur additional burden to collate and transmit this information to CMS, as follows.

Table 5: Annual Burden to QHP Issuers for Recommended AB Investigation Reporting

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	366	$79.86	36	$2,874.96	$1,052,235.36
Compliance Officer	366	$76.62	24	$1,838.88	$673,030.08
Total			**60**	**$4,713.84**	**$1,725,265.44**

Table 6: Average Annual Cost for All Collections of Information

Item	Regulatory Citations	Number of Respondents	Average Time per Respondent (Hours)	Total Annual Hours	Average Labor Cost ($/Hour)	Average Annual Cost (Millions $)
Call Recordings (Issuers)	N/A	366	30	10,980	$85.55	$939,302.40
Call Recordings (ABs)	N/A	8,401	1	8,401	$47.34	$397,703.34

Unauthorized Enrollments	45 CFR 155.400(d)	366	228	83,448	$82.45	$6,880,682.88
AB Investigations	N/A	366	60	21,960	$78.56	$1,725,265.44
Total Cumulative Hours and Costs of Collections			**319**	**124,789**		**$9,942,954.06**

We note that 68,856 hours (representing a total cost of $5,886,535) of the above burden is already accounted for in the currently approved PRA package with OMB control number 0938-1341; therefore, this table is an overestimate of the new burden associated with this information collection.

13. Capital Costs

Assuming an average call duration of 20 minutes, the average compressed audio file size of each call should be about 20 megabytes. Using the latest enrollment data, we estimate that there will be about 10 million enrollments facilitated by ABs. Assuming one call per enrollee, the total file size for these recordings would be 200 terabytes (TB) per year across all agents and brokers. Using pricing estimates of $0.023 per gigabyte (GB) for the first 50 TB, $0.022 per GB for the next 450 TB, and $0.021 per GB beyond that (Amazon Web Services, Amazon S3 pricing, https://aws.amazon.com/s3/pricing/ (last accessed May 5, 2026)), we estimate that total cloud storage costs are $4,450 across all ABs per year or $0.05 per AB.

14. Cost to Federal Government

We estimate that the operations and maintenance costs for the data collection support to have a total cost to the federal government of $72,637.96 per year. The calculations for CMS employees' hourly salaries were obtained from the OPM website: https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/26Tables/html/DCB_h.aspx.

Table 7. Administrative Burden Costs for the Federal Government Associated with the Collection

Task	Estimated Cost
Operations, maintenance, and data collection support	
1 GS-11 (step 7): $98.26[1] x 620 hours	$60,921.20
Managerial review and oversight	
1 GS-15 (step 7): $188.98[2] x 62 hours	$11,716.76
Total Costs to Government	**$72,637.96**

[1] Hourly basic rate $49.13 + 100% fringe benefit rate.
[2] Hourly basic rate $94.49 + 100% fringe benefit rate.

15. Changes to Burden

This is a new collection of information.

16. Publication/Tabulation

A vast majority of the consumer consent and eligibility application documentation we collect contains sensitive consumer PII, as well as business operations and trade information for the agencies collecting the data. The reason the data is not made public is to help mitigate the possibility of releasing consumer PII or confidential business information about the ABs or agencies. Additionally, issuer-identified data is not made public because a large portion of the issuer compliance reviews deal with the business operations and trade (commercial/financial) information for these issuers. Making this information public could 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.