

Supporting Statement for Information Collection Requirements for Non-Exchange Entities (CMS-10666/OMB control number: 0938-1329)

A. Background

The Patient Protection and Affordable Care Act, Public Law 111-148, enacted on March 23, 2010, and the Health Care and Education Reconciliation Act, Public Law 111-152, enacted on March 30, 2010 (collectively, “Affordable Care Act”), expanded access to health insurance for individuals and employees of small businesses through the establishment of new Affordable Insurance Exchanges (Exchanges), including the Small Business Health Options Program (SHOP). The Exchanges, which became operational on January 1, 2014, enhance competition in the health insurance market, expand access to affordable health insurance for millions of Americans, and provide consumers with a place to easily compare and shop for health insurance coverage.

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 to enroll qualified individuals and employers into qualified health plans (QHPs) offered through an Exchange and to enable these agents and brokers to assist individuals in applying for advance payments of the premium tax credit and cost-sharing reductions.

The *HHS Notice of Benefit and Payment Parameters for 2017 Final Rule* (2017 Payment Notice) finalized the definition of standardized plan options at § 155.20 as well as one set of standardized plan options for plan year (PY) 2017. It also codified the authority for HHS to differentially display standardized options on consumer-facing plan comparison and shopping tools, such as those on HealthCare.gov, at § 155.205(b)(1).

The *HHS Notice of Benefit and Payment Parameters for 2018 Final Rule* (2018 Payment Notice) finalized two updated sets of standardized plan options. The 2018 Payment Notice also finalized requirements for web-brokers and issuers that use the Classic Direct Enrollment (Classic DE) and Enhanced Direct Enrollment (EDE) pathways to differentially display standardized plan options in a manner consistent with that adopted by HHS for display on HealthCare.gov, at §§ 155.220(c)(3)(i)(H) and 156.265(b)(3)(iv), respectively. The 2018 Payment Notice also finalized that a web-broker or issuer that utilizes the Classic DE and EDE pathways could submit a request to deviate from the differential display of standardized plan options on HealthCare.gov with approval from HHS at §§ 155.220(c)(3)(i)(H) and 156.265(b)(3)(iv), respectively.

The original information collection request (ICR) that provided HHS the authority to collect the information necessary for these requests to deviate was titled *Non-Exchange Entities* (0938-1329) and was approved on May 23, 2017. The original ICR was discontinued on March 4, 2020 due to the concurrent discontinuation of standardized plan options in the *HHS Notice of Benefit and Payment Parameters for 2019 Final Rule* (2019 Payment Notice).

The ICR that provided HHS the authority to collect the necessary information to enable web-brokers and issuers using the Classic DE and EDE pathways to submit a request to deviate from the manner in which standardized plan options are differentially displayed on HealthCare.gov was reinstated concurrently with the reintroduction of standardized plan option requirements in the *HHS Notice of Benefit and Payment Parameters for 2023 Final Rule* (2023 Payment Notice). The

standardized plan options that were differentially displayed on HealthCare.gov and that web-brokers or issuers utilizing the Classic DE and EDE pathways were required to differentially display were updated in the *HHS Notice of Benefit and Payment Parameters for 2024 Final Rule* (2024 Payment Notice) and *HHS Notice of Benefit and Payment Parameters for 2025 Final Rule* (2025 Payment Notice). This ICR serves as a formal request for an extension without change of a currently approved clearance.

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 agents and brokers to enroll qualified individuals and employers into QHPs offered through an Exchange and to enable these agents and brokers to assist individuals in applying for advance payments of the premium tax credit and cost sharing reductions.

In the 2018 Payment Notice, at §§ 155.220(c)(3)(i)(H) and 156.265(b)(3)(iv), HHS codified the authority to require web-brokers and issuers that use the Classic DE and EDE pathways to differentially display standardized plan options in a manner consistent with that adopted by HHS for display on HealthCare.gov in order to promote consistent messaging across all enrollment platforms, including those of web-brokers and Classic DE and EDE issuers.

In the 2018 Payment Notice, HHS noted that it anticipated that the differential display of standardized plan options would not require significant modification of web-broker and issuer platforms but that such display would provide an important service for consumers seeking to enroll in a standardized plan option. However, HHS noted that system constraints may prevent web-brokers and issuers from precisely mirroring the differential display of standardized plan options on HealthCare.gov.

For this reason, in the 2018 Payment Notice, HHS noted it would not require the manner of differentiation of standardized plan options on non-Exchange web sites to be identical to that adopted on HealthCare.gov. Instead, HHS noted that the display must have the same level of differentiation and clarity as is provided on HealthCare.gov. Thus, to permit web-brokers and issuers using the DE and EDE pathways additional flexibility, HHS allowed these entities to submit a request to deviate from the manner in which standardized plan options are differentially displayed on HealthCare.gov. HHS stated that these requests to deviate would be reviewed based on whether the same level of differentiation and clarity is being provided under the requested deviation as is provided on HealthCare.gov.

The 2023 Payment Notice reintroduced requirements for issuers offering QHPs through the Federally-facilitated Exchanges (FfEs) and State-based Exchanges on the Federal Platform (SBE-FPs) to offer standardized plan options at § 156.201. The 2023 Payment Notice also resumed differential display of these standardized plan options on HealthCare.gov in accordance with § 155.205(b)(1). The 2023 Payment Notice also resumed enforcement of the requirements for web-brokers and issuers that use the Classic DE and EDE pathways to differentially display standardized plan options in a manner consistent with that adopted by HHS for display on HealthCare.gov, at §§ 155.220(c)(3)(i)(H) and 156.265(b)(3)(iv), respectively. Finally, the 2023 Payment Notice resumed the flexibility permitting web-brokers and issuers utilizing the Classic

DE and EDE pathways to submit a request to deviate from the differential display of standardized plan options on HealthCare.gov, with approval from HHS.

The current ICR provides the authority for HHS to request information from these entities to submit a request to deviate from the manner in which standardized plan options are differentially displayed on HealthCare.gov, if these entities so choose. This flexibility will ensure that web-brokers and issuers using the DE and EDE pathways can continue to enroll qualified consumers into QHPs offered through the Exchanges without disruption.

2. Information Users

This ICR will provide HHS the authority necessary to request information from web-brokers and QHP issuers using the Classic DE and EDE pathways to request to deviate from the manner in which standardized plan options are differentially displayed on HealthCare.gov, if they so choose.

3. Use of Information Technology

HHS anticipates that a majority of the systems, notices, and information collection required will be automated. A majority of the information that is required by the collection of information will be submitted electronically. HHS staff will analyze or review the data in the same manner by which it was submitted and communicate 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 will not have a significant impact on small business.

6. Less Frequent Collection

If this information is collected on a less frequent basis, HHS will be unable to allow web-brokers and QHP issuers using a DE or an EDE pathway to request to deviate from the manner in which standardized plan options are differentially displayed on HealthCare.gov, which could impede the enrollment of qualified individuals into QHPs through these enrollment pathways. Therefore, this information must be collected on an annual basis to allow these web-brokers and issuers to submit a request to deviate, if they so choose.

7. Special Circumstances

There are no anticipated special circumstances.

8. Federal Register/Outside Consultation

A 60-day Notice will be published in the Federal Register on XX XX, 2025 (XX FR XXXX) for the public to submit written comment on the information collection requirements.

No additional outside consultation was sought.

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 § 155.260, Privacy and Security of Personally Identifiable Information. Pursuant to this regulation, Exchanges may only use or disclose personally identifiable information to the extent that such information is necessary to carry out their statutory and regulatory 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 \(BLS\) website](#) to estimate the burden for this collection. The median hourly wage for web and digital interface designers is \$47.37, plus a 100% fringe benefit rate of \$47.37, for an adjusted hourly wage of \$94.74. The median hourly wage for compliance officers is \$36.38, plus a 100% fringe benefit rate of \$36.38, for an adjusted hourly wage of \$72.76 per hour.

Table 1. Adjusted Hourly Wages Used in Burden Estimates

Occupational Title	Occupational Code	Median Hourly Wage (\$/hour)	Fringe Benefits & Overhead (100%) (\$/hour)	Adjusted Hourly Wage (\$/hour)
Web and Digital Interface Designers	15-1255	\$47.37	\$47.37	\$94.74
Compliance Officer	13-1041	\$36.38	\$36.38	\$72.76

Burden for Web-Brokers and Issuers Utilizing the Classic DE and EDE Pathways to Differentially Display Standardized Plan Options in a Manner Consistent with the Display on HealthCare.gov

In accordance with §§ 155.220(c)(3)(i)(H) and 156.265(b)(3)(iv), web-brokers and issuers utilizing the Classic DE and EDE pathways must differentially display standardized plan options in a manner consistent with the display on HealthCare.gov, unless HHS approves a deviation.

We estimate that a total of 100 web-brokers and issuers utilizing the Classic DE and EDE pathways will be subject to these requirements. We further estimate that it will take a web and digital interface designer two hours annually, at cost of \$94.74 per hour, to implement these changes, at a total annual cost of \$189.48 per entity. We therefore estimate a total annual burden of 200 hours at a total annual cost of \$18,948.00 for all applicable web-brokers and issuers utilizing the Classic DE and EDE pathways.

Table 2. Burden for Web-Brokers and Issuers Utilizing the Classic DE and EDE Pathways to Differentially Display Standardized Plan Options in a Manner Consistent with the Display on HealthCare.gov

Labor Category	Number of Respondents	Hourly Labor Costs (Hourly rate + 100% Fringe Benefits)	Burden Hours (Per Respondent)	Total Burden Cost (Per Respondent)	Total Burden Costs (All Respondents)
Web and Digital Interface Designers	100	\$94.74	2	\$189.48	\$18,948.00
Total - Annual			200	\$189.48	\$18,948.00

Burden for Web-Brokers and Issuers Utilizing the Classic DE and EDE Pathways to Request to Deviate from the Display on HealthCare.gov

HHS is aware that system constraints may prevent web-brokers and issuers utilizing the Classic DE and EDE pathways from precisely mirroring the differential display of standardized plan options on HealthCare.gov on their own platforms. For this reason, HHS does not require the differential display of standardized plan options on non-Exchange web sites to be identical to that of HealthCare.gov. Instead, HHS requires that the display must have the same level of differentiation and clarity as is provided on HealthCare.gov.

Furthermore, to permit web-brokers and issuers using the Classic DE and EDE pathways additional flexibility, HHS allows these entities to submit a request to deviate from the manner in which standardized plan options are differentially displayed on HealthCare.gov. These requests are reviewed based on whether the same level of differentiation and clarity is being provided under the requested deviation that is provided on HealthCare.gov.

Of the 100 total web-brokers and issuers utilizing the Classic DE and EDE pathways, we estimate that 15 will submit a request to deviate from the manner in which standardized plan options are differentially displayed on HealthCare.gov. We estimate it will take a compliance officer (at an hourly rate of \$72.76) approximately one hour annually to complete and submit the request to deviate. We therefore estimate an annual cost burden of \$72.76 per applicable entity. This amounts to an annual burden of 15 hours at a total annual cost of \$1,091.40 for all web-brokers and issuers utilizing a Classic DE and EDE pathway to submit a request to deviate from the manner in which standardized plan options are differentially displayed on HealthCare.gov.

Table 3. Burden for Web-Brokers and Issuers Utilizing the Classic DE and EDE Pathways to Request to Deviate from the Display on HealthCare.gov

Labor Category	Number of Respondents	Hourly Labor Costs (Hourly rate + 100% Fringe Benefits)	Burden Hours (Per Respondent)	Total Burden Cost (Per Respondent)	Total Burden Costs (All Respondents)
Compliance Officer	15	\$72.76	1	\$72.76	\$1,091.40
Total - Annual			15	\$72.76	\$1,091.40

Table 4. Summary of Annual Total Burden

Table Number: Name	CFR Section	Total Annual Burden Hours	Total Annual Burden Costs
Table 2. Burden for Web-Brokers and Issuers Utilizing the Classic DE and EDE Pathways to Differentially Display Standardized Plan Options in a Manner Consistent with the Display on HealthCare.gov	45 CFR §§ 155.220(c)(3)(i)(H) and 156.265(b)(3)(iv)	200	\$18,948.00
Table 3. Burden for Web-Brokers and Issuers Utilizing the Classic DE and EDE Pathways to Request to Deviate from the Display on HealthCare.gov	45 CFR §§ 155.220(c)(3)(i)(H) and 156.265(b)(3)(iv)	15	\$1,091.40
Total		215	\$20,039.40

13. Capital Costs

There are no anticipated capital costs associated with these information collections.

14. Cost to Federal Government

We estimate that the operations and maintenance costs for the data collection tool and the data collection support to have a total cost to the Federal government of \$3,708.50 per year. The calculations for CCIIO employees' hourly salary was obtained from the [OPM website](#).

Table 5. Administrative Burden Costs for the Federal Government Associated with the Data Collection

Task	Estimated Cost
Operations, maintenance, and data collection support	
2 GS-13 (step 7): 2 x \$138.66 ¹ x 10 hours	\$2,773.20
Managerial review and oversight	
1 GS-15 (step 7): \$187.06 ¹ x 5 hours	\$935.30
Total Costs to Government	\$3,708.50

¹ Hourly basic rate + 100% fringe benefit rate.

15. Changes to Burden

There is an overall decrease in the financial burden from the 2022 PRA package because of a reduction in the burden estimate for web-brokers and issuers utilizing the Classic DE and EDE pathways to differentially display standardized plan options consistent with the manner in which they are differentially displayed on HealthCare.gov in the current collection is lower. Specifically, the annual total burden estimate in the previous PRA package was 275 hours at a cost of \$24,205.50, while the annual total burden estimate in the current iteration of the collection is 215 hours at a cost of \$20,039.40, a reduction of 60 hours and \$4,166.10, respectively.

This reduction is primarily due to the lower number of entities subject to this requirement in the current collection. Specifically, in the previous PRA package, we estimated 110 entities would be subject to the standardized option differential display requirements and we propose 100 entities, which is a decrease of 10 entities. Additionally, we estimated 55 entities would submit a request to deviate from the manner in which standardized plan options are differentially displayed on HealthCare.gov and we propose 15 entities will submit such a request. This reduction of 40 entities is based on the last three years of our experience in this information collection.

16. Publication/Tabulation Dates

There are no plans to publish the outcome of the data collection. This is because the data that web-brokers and issuers that utilize the Classic DE and EDE pathways will submit as part of this collection will solely pertain as to whether these entities are requesting to deviate slightly from the manner in which standardized plan options are differentially displayed on HealthCare.gov on their own enrollment platforms. Such data is not in a standardized, machine-readable format. Instead, it has historically been in the form of a brief written request.

17. Expiration Date

The expiration date and OMB control number will appear on the first page of the instrument in the top, right corner.

18. Certification Statement

There are no exceptions to the certification statement.