

Supporting Statement for Establishment of Qualified Health Plans and American Health Benefit Exchanges (CMS-10400/OMB control number: 0938-1156)

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.

Section 1303 of the PPACA, as implemented in 45 CFR 156.280, specifies standards for issuers of qualified health plans (QHPs) through the Exchanges that cover abortion services for which public funding is prohibited (also referred to as non-Hyde abortion services or non-excepted abortion services). In the *Patient Protection and Affordable Care Act; Establishment of Exchanges and Qualified Health Plans; Exchange Standards for Employers* (2012 Exchange Establishment Rule) (77 FR 18310), we codified the statutory provisions of section 1303 of the PPACA in regulation at 45 CFR 156.280. Under 45 C.F.R. § 156.280(e)(5)(ii), each QHP issuer that offers coverage of abortion services for which public funding is prohibited must submit to the State Insurance Commissioner a segregation plan describing how the QHP issuer establishes and maintains separate allocation accounts for any QHP covering abortion services for which public funding is prohibited, and pursuant to §156.280(e)(5)(iii), each QHP issuer must annually attest to compliance with PPACA section 1303 and applicable regulations. This segregation plan is used to verify that the QHP issuer's financial and other systems fully conform to the segregation requirements required by the PPACA.

The Centers for Medicare and Medicaid Services (CMS) is renewing this information collection request (ICR) in connection with the segregation plan requirement under 45 C.F.R. § 156.280(e)(5)(ii). The burden estimate for this ICR included in this renewal package reflects the time and effort for QHP issuers to submit a segregation plan that demonstrates how the QHP issuer segregates QHP funds in accordance with applicable provisions of generally accepted accounting requirements, circulars on funds management of the Office of Management and Budget (OMB) and guidance on accounting of the Government Accountability Office. CMS is also renewing the ICR in connection with the annual attestation requirement under 45 C.F.R. § 156.280(e)(5)(iii). The burden estimate for this ICR reflects the time and effort associated with QHP issuers submitting an annual attestation to the State Insurance Commissioner attesting to compliance with section 1303 of the PPACA.

B. Justification

1. Need and Legal Basis

Under 45 C.F.R. § 156.280(e)(5)(ii), each QHP issuer must submit to the State Insurance Commissioner a segregation plan describing how the QHP issuer establishes and maintains separate payment accounts for any QHP covering abortion services for which public funding is prohibited. This segregation plan is used to verify that the QHP's financial and other systems fully conform to the segregation requirements required by the PPACA.

2. Information Users

The data collection and reporting requirements further compliance with federal law. The ICR involved in this PRA package relates to abortion services for which public funding is prohibited. A QHP issuer that provides coverage of abortion services for which public funding is prohibited as described in § 156.280(d)(1) must ensure that no premium tax credit or cost-sharing reduction funds are used to pay for those abortion services.

A QHP issuer providing coverage for abortion services for which public funding is prohibited must, within stated parameters, segregate funds collected for such coverage into a separate allocation account used exclusively to pay for those abortion services. The QHP issuer's segregation plan and annual attestation are sent to the State Insurance Commissioner to verify that the QHP issuer's financial and other systems fully conform to the segregation requirements and section 1303 of the PPACA.

3. Use of Information Technology

HHS believes that a majority if not all of the information required by this collection can be provided in an electronic format.

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 businesses.

6. Less Frequent Collection

Due to the nature of QHP certification and the regulatory requirements, it is necessary to collect information according to the indicated frequencies. If the information is collected less frequently, the result could mean non-compliance with the regulation.

7. Special Circumstances

There are no special circumstances.

8. Federal Register/Outside Consultation

The 60-day notice published in the Federal Register on March 28, 2024 (89 FR 21523) for the public to submit written comment on the information collection requirements. One public comment was received but it was not applicable to this ICR.

A 30-day notice will be published in the Federal Register on June 14, 2024 (89 FR 50591) 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 45 CFR 155.620, 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)

The following section contains estimates of burden imposed by the associated information collection requirements. The labor costs (including 100 percent fringe benefits) used to estimate the burden are calculated using data available from the 2023 National Occupational Employment and Wage Estimates, Bureau of Labor Statistics website: https://www.bls.gov/oes/current/oes_stru.htm. For a description of the median hourly wages for the labor categories see Table 1.

Table 1: Adjusted Hourly Wages Used in Burden Estimates

Occupation Title	Occupational Code	Median Hourly Wage (\$/hour)	Fringe Benefits and Overhead (100%)(\$/hour)	Adjusted Hourly Wage (\$/hour)
Computer System Analyst	15-1211	\$49.90	\$49.90	\$99.80
Financial Analyst	13-2051	\$47.60	\$47.60	\$95.20
Actuaries	15-2011	\$57.69	\$57.69	\$115.38
Lawyers	23-1011	\$70.08	\$70.08	\$140.16
General and Operations Manager	11-1021	\$48.69	\$48.69	\$97.38

Segregation Plan

We note that the estimate of the paperwork burden generally reflects the burden on the QHP issuer after the initial costs have been incurred and that the associated burden after the first year are significantly lower because many of the standards in the regulation can be fulfilled through automated processes.

Submission of Segregation Plan

Section 156.280(e)(5)(ii) requires each QHP issuer offering coverage of abortion services for which

public funding is prohibited on the Exchange to submit to the State Insurance Commissioner a segregation plan describing how the issuer will establish and maintain a separate payment account for any QHP that covers those abortion services. This plan will be used to verify that the QHP's financial and other systems fully conform to the segregation requirements, as required by section 1303 of the PPACA. The burden estimate associated with this requirement includes the time for QHP issuers offering coverage of abortion services for which public funding is prohibited to report on the operational and financial systems that will segregate funds.

The burden associated with developing the segregation plan is a one-time cost for issuers offering coverage of abortion services for which public funding is prohibited. We estimate that approximately 174 QHP issuers will newly offer abortion services for which public funding is prohibited each year and will therefore need to develop segregation plans. We assume that QHP issuers that previously offered this coverage will have already completed a segregation plan. We estimate that it will initially take each issuer approximately 13 hours (with an equivalent cost of \$1,326.71) annually for the time and effort to develop and provide the segregation plan to the State Insurance Commissioner, for a total annual burden of approximately 2,262 hours for the estimated 174 QHP issuers with an equivalent annual cost of \$230,847.54.

Table 2: Burden for QHP Issuers Developing Segregation Plans

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)
Computer System Analyst	174	\$99.80	5	\$499.00	\$86,826.00
Financial Analyst	174	\$95.20	4	\$380.80	\$66,259.20
Actuaries	174	\$115.38	2	\$230.76	\$40,152.24
Lawyers	174	\$140.16	0.5	\$70.08	\$12,193.92
General and Operations Manager	174	\$97.38	1.5	\$146.07	\$25,416.18
Total - Annual			2,262	\$1,326.71	\$230,847.54
Total - Three Years			6,786		\$692,542.62

Attestation

Pursuant to §156.280(e)(5)(iii), each QHP issuer must also annually attest to compliance with PPACA section 1303 and applicable regulations. The burden estimate associated with this requirement includes the time for all QHP issuers on the Exchange to provide an annual attestation to the State Insurance Commissioner that the QHP issuer remains in compliance with section 1303 of the PPACA and applicable regulations.

The burden associated with requiring individual market QHP issuers (not including SADP issuers) participating in the Exchange to submit an attestation to the State Insurance Commissioner is annual. We estimate there are 1,443 QHP issuers covering abortion services for which public

funding is prohibited participating on the Exchange. Therefore, we estimate it will take approximately 2.25 hours (with an equivalent cost of \$227.62) annually per QHP issuer to provide an attestation to the State Insurance Commissioner, for a total of 3,246.75 annual hours across all 1,443 QHP issuers, with an equivalent annual cost of \$328,455.66.

Table 3: Burden for QHP Issuers Submitting Attestations

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)
Financial Analyst	1,443	\$95.20	1	\$95.20	\$137,373.60
General and Operations Manager	1,443	\$97.38	1	\$97.38	\$140,519.34
Lawyers	1,443	\$140.16	0.25	\$35.04	\$50,562.72
Total - Annual			3,246.75	\$227.62	\$328,455.66
Total – Three Years			9,740.25		\$985,366.98

Table 4. Summary of Total Annual Burden

Table Number: Name	CFR Section	Burden Hours	Burden Cost
Table 2: Burden for QHP Issuers Developing Segregation Plans	45 C.F.R. 156.280(e)(5)(ii)	2,262	\$230,847.54
Table 3: Burden for QHP Issuers Submitting Attestations	45 C.F.R. 156.280(e)(5)(iii)	3,246.75	\$328,455.66
Total		5,508.75	\$559,303.20

13. Capital Costs

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

14. Cost to Federal Government

There are no costs to the Federal Government.

15. Changes to Burden

There is an overall increase in the financial burden from the 2021 PRA package because of the increase in the number of QHP issuers from 210 to 1,617, which is an increase of 1,407 issuers. The total burden hours increased from 580 hours to 5,508.75 hours, which is an increase of 4,928.75 hours. The estimated annual costs increased from \$62,434.00 to \$559,303.20, which is an increase of

\$496,869.20. All prior iterations of wage data were based on mean values and the current iteration is based on median values.

16. Publication/Tabulation Dates

Results of the collection will not be made public by CMS, as the segregation plan is submitted to the State Insurance Commissioner, not to CMS. Further, we note that section 156.280(e)(5)(ii) requires QHP issuers to include in their segregation plan details on their process and methodology for meeting the requirements of section 1303(b)(2)(C), (D), and (E) and requires issuers to describe the QHP issuer's financial accounting systems, including appropriate accounting documentation and internal controls. Therefore, publication of such data might potentially release confidential business or financial accounting information about the issuers and issuer processes.

17. Expiration Date

There are no instruments associated with this data collection.