

**SUPPORTING STATEMENT - PART A**  
**AGENT/BROKER DATA COLLECTION IN FEDERALLY FACILITATED**  
**HEALTH INSURANCE EXCHANGES– CMS-10464**

**A. Background**

On March 23, 2010 and March 30, 2010, respectively, the President signed into law the Patient Protection and Affordable Care Act (P.L. 111-148), and the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152). Collectively, these two laws are referred to as the Affordable Care Act. The Affordable Care Act expands access to health insurance coverage through the establishment of Affordable Insurance Exchanges (Exchanges), improvements to Medicaid and the Children’s Health Insurance Programs, and the assurance of coordination between Medicaid, CHIP, and Exchanges. The Exchanges, new competitive private health insurance markets available to qualified individuals through the individual Exchange and small business employers/employees through the Small Business Health Options Program (SHOP) Exchange, will give millions of Americans and small businesses access to affordable, quality insurance options. By providing a place for one-stop shopping, Exchanges will make purchasing health insurance easier, more transparent, and will put greater control and choice in the hands of individuals and small businesses. Each state may establish its own Exchange, and States that do not opt to establish their own Exchange will have a Federally-facilitated Exchange (FFE).

The Exchanges established by the Affordable Care Act will facilitate the enrollment of qualified individuals into Qualified Health Plans (QHPs). The Exchanges will begin accepting applications for coverage when open enrollment begins on October 1, 2013 for coverage that will begin on January 1, 2014. Section 1401 of the Affordable Care Act creates a new section 36B of the Internal Revenue Code (the Code), which provides for an advanced premium tax credit (APTC) to reduce the monthly insurance costs for eligible individuals who enroll in a QHP through an Exchange. In addition, section 1402 of the Affordable Care Act provides cost-sharing reductions (CSRs), including co-pays and deductibles, for eligible individuals enrolled in a QHP offered through an Exchange.

The Center for Consumer Information and Insurance Oversight (CCIIO), the agency within the Centers for Medicare & Medicaid Services (CMS) charged with implementing many provisions of the Affordable Care Act, including the establishment of FFEs, recognizes the longstanding role that agent/brokers have played in connecting individuals and small businesses with health insurance products. Section 1312(e) of the Affordable Care Act and 45 C.F.R. §155.220(a)(1) expand the role of agent/brokers by permitting them to enroll qualified individuals or small employers/employees in QHPs through the Exchanges, and assist individuals in applying for APTCs and CSRs. To participate as facilitators to enrollment, the final rule requires agent/brokers to register with the FFE, complete a training course covering eligibility and enrollment criteria for assisting in QHP enrollment, and sign an agreement that formalizes their understanding and commitment to adhere to the rules of the program. This requirement is specific to the FFE and does not automatically apply to state-based Exchanges.

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## **B. Justification**

### **1. Need and Legal Basis**

Both section 1312(e) of the Affordable Care Act and 45 C.F.R §155.220 permit states to allow agent/brokers to enroll qualified individuals, employers, and employees in QHPs, including through the Exchange; and assist individuals in applying for APTCs and CSRs. Agent/brokers will serve as additional access points to the Exchange for individuals or SHOP employers/employees requiring or desiring agent/broker assistance. Agent/brokers must establish an account through the Exchange Portal in order to interface with the FFE. Additionally, agent/brokers must register for, and successfully complete, Exchange-specific training, which enforces their understanding of eligibility and enrollment requirements in Exchanges. Agent/brokers must also apply this understanding to the development of any non-Exchange Web site used as a tool for enrollment.

Finally, agent/brokers must sign an agreement that documents their commitment to the FFE requirements, their willingness to periodically update the information collected at their initial enrollment, and their recognition that for the purposes of compliance monitoring they may be asked to make their records available to the FFE when required.

### **Necessary Data for Agent/Broker FFE Registration and Training Access**

The data collection described in detail below is necessary for agent/brokers to register and complete training with the FFE. The following appendices contain the statutes referenced within this Supporting Statement, and the data elements agent/brokers will need to submit for registration and training purposes:

- **Appendix A: Data Elements for Agent/Broker Registration**

- *Personal Identifying Information/Contact Information:* These categories include basic information required for agent/brokers to create user accounts on the Exchange Portal, and facilitate communications with clients. The data elements will include the agent/broker's first and last name, date of birth, email address, phone number(s), fax number(s), and business mailing address. (Social Security Numbers will be obtained from all FFE users, but are previously covered by a separate PRA package through CMS Office of Information Services).
- *Professional Information:* This category includes the agent/broker's affiliated company name, national producer number (NPN), market type selection, and appointment data. This information is necessary for agent/brokers to identify which Exchange market they intend to serve. Additionally, as part of the registration process, CMS must verify agent/brokers carry valid state licenses to sell insurance, as required by state law. Therefore, verifying an agent/broker's licensure status will be a critical part of the registration process, and will require agent/brokers to submit their NPNs. Additionally, certified agent/brokers will submit certain data, such as affiliated

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insurance companies, that will be displayed in a searchable profile for consumers' benefit.

- **Appendix B: Agent/Broker Data Elements Required for Access to CMS Training Learning Management System, Training Curriculum Outline, and Sample Exam Question**

- *Personal and Professional Information:* Agent/brokers may access a CMS Training Learning Management System (LMS) through the Exchange Portal after they initiate registration on the Exchange Portal. Access to CMS LMS requires that agent/brokers provide log-in credentials by creating a user name, and submitting basic personal information, including first and last name, email address, title/position, address, and telephone number.
- *Exam Responses:* To confirm each agent/broker's competency, each applicant will need to enter responses for a multiple choice exam for each course module in the CMS LMS. Because the success on this competency exam determines whether each agent/broker may participate in the FFE, one sample question is included in Appendix C, rather than publishing all the exam questions.

## **2. Information Users**

CMS will collect data, including licensure and personally identifiable information, from agent/brokers to register them with the FFE through the Exchange Portal. A key component of the registration process requiring data collection is verifying the agent/broker's licensure status. Agent/brokers will enter basic identifying information on the Exchange Portal during the initial phase of registration. See Appendix A. After their account is established in the initial phase of registration, agent/brokers will be routed to CMS' LMS to access and complete required training and exams. See Appendix B. The user names and zip codes that agent/brokers provided during training will be used to record their training history through CMS LMS, and to communicate training results with the Exchange Portal. As the accompanying appendices demonstrate, the training and exams will ensure agent/brokers possess the basic knowledge required to enroll individuals and SHOP employers/employees through the Exchange.

Additionally, CMS will use the collected data for oversight and monitoring of agent/brokers, and to ensure compliance with the Affordable Care Act provisions under 45 C.F.R. §155.220. If CMS detects anomalies, the CMS division with primary responsibility for overseeing agent/broker oversight will follow-up to resolve issues, as necessary.

## **3. Use of Information Technology**

Agent/brokers that wish to participate in the enrollment of individual or SHOP employer/employees through the FFE will use the Exchange Portal to enter identifying information and register with the FFE. Following registration, agent/brokers will be provided with credentials to access and complete an online training course through CMS's LMS. Agent/brokers will confirm completion and comprehension of the material by completing exams

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administered online. All aspects of registration and training will be conducted through an electronic platform. The decision to make online, electronic submission of materials required is the result of (a) the geographic distribution of the population providing information to a centralized source, and (b) the existing expectation that agent/brokers will need to have and use online, electronic means to fulfill FFE enrollment functions with consumers. Upon completion of their application and training requirements, agent/brokers will be required to electronically sign an agreement with the Exchange.

#### **4. Duplication of Efforts**

This information collection does not duplicate any other effort and the information cannot be obtained from any other source.

#### **5. Small Businesses**

By their nature, many agent/brokers are small businesses. The streamlined data collection and training approach employed in this process was tailored to meet their needs and to minimize burden to this group. There are no unique impacts that would affect small businesses any more than larger ones.

#### **6. Less Frequent Collection**

Annual registration and training are required for agent/brokers to update their knowledge and maintain the ability to enroll individuals or SHOP employer/employees in QHPs through the FFE. CMS/CCIIO requires annual registration and training to ensure agent/brokers are operating under the most current CMS/CCIIO guidelines and with knowledge of the most up to date market information. From time to time agent/brokers may be asked to make their records available for oversight and compliance purposes. This is the minimum collection necessary for agent/brokers to meet the registration requirements required by the Exchange final rule and regulations, 45. C.F.R. §155.220(d)-(e).

#### **7. Special Circumstances**

Not applicable.

#### **8. Federal Register/Outside Consultation**

CMS has collaborated with several independent contractors, the National Association of Insurance Commissioners (NAIC), and CMS' Office of Information Systems, to pursue the most efficient and technologically-streamlined means for registering and training. This includes collaborating with the NAIC, states, industry membership groups, and issuers to determine the categories of data necessary for enabling agent/brokers to register with the FFE, access training, and assist individuals in enrolling in QHPs. CMS has sought to leverage information already available in databases with the NAIC and state departments of insurance, and will not request any data from agent/brokers it will not already receive from existing sources. CMS will continue to maintain collaboration with these stakeholders during future years. We have taken into

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consideration all proposed suggestions from industry stakeholders and the public, and have made necessary changes to this information collection. The 60-day FR Notice will publish on February 1, 2013.

## **9. Payments/Gifts to Respondents**

There are no payments/gifts to respondents associated with this information collection request.

## **10. Confidentiality**

All information obtained by CMS for this data collection will be kept private pursuant to applicable laws/regulations, including the Freedom of Information Act (FOIA), 45 C.F.R §5.65.

## **11. Sensitive Questions**

There are no sensitive questions.

## **12. Burden Estimates (Hours & Wages)**

Burden was based on a three part methodology. We first estimated the cost per hour for current insurance brokers. We then estimated the number of hours it takes to complete the registration process. We then estimated the population of agent/brokers expected to register for this program. Finally, we applied to that estimated population the hourly wage and the number of hours needed to register, to arrive at an average annual cost of \$152.59 per broker and \$38,772,165 nationwide. The following discussion and charts explain how this estimate was derived.

Based on data obtained from the Bureau of Labor Statistics (BLS) on insurance broker wages and from the National Association of Insurance Companies (NAIC) as well as consultation with the subject matter experts developing the training curriculum, we have developed an estimate of the burden to agent/brokers in lost hours and wages as a result of registering and training for this program.

The Bureau of Labor and Statistics (May 2011) indicates that for its labor category, Insurance Sales Agent, the average individual wage was \$30.28 per hour. Trending this wage up by 3% for each of two years results in an expected hourly wage for agent/brokers of \$32.12.

Screen shots of the registration process are included as Appendix A. We expect that gathering the necessary information, completing the screens, and reading and signing the agreement will take less than forty five minutes. In addition, agent/brokers will have to complete an online training curriculum and pass a short exam at the end. It is estimated that the training and exam process will take four hours. Thus the total burden per agent/broker to complete training, take the exam, and register will be 4.75 hours.

We used data provided by the NAIC to estimate the number of agent/brokers who would be affected by this collection. The NAIC indicates that there are between 600,000 and 700,000 total licensed brokers selling health insurance at any point in time in the United States. We selected

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the midpoint, 650,000 as our starting point for calculating burden. According to CCIIO estimates, 37% of these agent/brokers are in State-based Exchange states, which would fall outside of this data collection. An estimate of 409,500 remain in FFE states. CCIIO estimates indicate that 27% of agent/brokers are captive to only one issuing company. We assume that they will not enroll through the registration process, but will work with their issuer. That leaves 298,935 remaining agent/brokers. It is unlikely that every remaining agent/broker will register with the FFE. We estimate that 85% will register. This results in an estimate of 254,095 expected registrants.

As the Bureau of Labor Statistics indicates that agent/brokers earn approximately \$32.12 per hour, the cost of 4.75 hours will be \$152.59 for each broker. Applied across the 254,095 expected agent/brokers, this results in a total cost estimate of \$38,772,165.

For years two and three we made two important changes. Re-registration will not be as complicated an undertaking as the initial registration. Similarly, in the first year for training and testing, extra time has been built in to allow for test failings and the re-taking of the curriculum. For these reasons, in years two and three the time for registration has been reduced from 45 minutes to 15 minutes and the time for taking the training curriculum and exam has been reduced from four hours to three hours. We have also built in a 3% annual cost of living increase for agent/broker wages. Thus, the year two and three costs are reduced to \$107.54 and \$110.76 per broker and \$27.3M and \$28.1 M overall.

Year	Hours per agent	Average wage/hr	Cost per agent	Total Hours All Respondents	Total Cost All Respondents
1	4.75	\$ 32.12	\$ 152.59	1,206,951	\$ 38,772,165
2	3.25	\$ 33.09	\$ 107.54	825,809	\$ 27,324,173
3	3.25	\$ 34.08	\$ 110.76	825,809	\$ 28,143,898
<b>Total for all years</b>					94,240,236

### **13. Capital Costs**

No capital costs are estimated for agent/brokers to interact with the Exchange Portal, register, participate in training, and confirm material comprehension. The purchase of applicable equipment or services is considered part of customary and usual business or private practices.

### **14. Cost to Federal Government**

There are four broad categories of cost to the Federal Government for implementing and maintaining the agent/broker program:

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- 1) The first cost category is the computer costs associated with the development, implementation, and maintenance of the Exchange Portal in the CMS data warehouse. This cost has been included in the CMS Office of Information Systems' budget and PRA. In years two and three, the Federal Government will incur additional information technology costs to administer and maintain the Exchange Portal. These costs have also been covered in the Office of Information Systems budget and included in their PRA. For that reason these costs will not be included for the purposes of this PRA or cost analysis.
- 2) The second cost category is for the development and maintenance of a training curricula. This curriculum is being developed by a contractor with an approved budget of 4,803 hours at an average loaded cost per hour of \$130.08, weighted by the various kinds of staff needed for this task. Thus, the first year cost of developing the learning modules are \$624,772. This cost will not recur in years two or three of the contract.
- 3) The third cost category is for actually training and registering the agents and brokers, including data transfers of training results from the CMS LMS back to the FFE portal, and other CMS LMS workload to offer the online training. It has been estimated that this will take 2,089 hours with a blended, fully loaded, staff cost rate of \$136.89 for a total of \$285,963. This cost will recur for years two and three of the contract and will be increased by 3% each year for inflation.
- 4) The fourth cost category is for a CMS Contracting Officer's Representative (COR) to oversee the project. CMS expects to hire a full time GS-13 employee to fulfill this responsibility. The current salary of a 13 Grade/Step 1 employee in the Washington, D.C. area is \$89,033 in year one. The cost for the COR will continue in years two and three but as no cost inflator is currently known, none will be applied.

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Year	Category	Hours	Cost	Total Cost
1	Training curriculum	4,803	\$ 130.08	\$ 624,774
	Agent/broker training and registration	2,089	\$ 136.89	\$ 285,963
	CMS Contract Officer			\$ 89,033
	<b>Total</b>			<b>\$ 999,770</b>
2	Agent/broker training and registration	2,089	\$ 141.00	\$ 294,542
	CMS Contract Officer			\$ 89,033
	<b>Total</b>			<b>\$ 383,575</b>
3	Agent/broker training and registration	2,089	\$ 136.89	\$ 285,963
	CMS Contract Officer			\$ 89,033
	<b>Total</b>			<b>\$ 374,996</b>
	<b>Total for all years</b>			<b>1,758,342</b>

### **15. Changes to Burden**

This is a new collection. Therefore, there are no changes to burden.

### **16. Publication/Tabulation Dates**

Agent/broker FFE registration and completion of the required training will begin on or around July 1, 2013. Select data elements submitted to CMS may be made public to facilitate individual or SHOP employer/employee access to a list of registered agent/brokers. A listing of agent/brokers who have successfully registered with the FFE through the Exchange Portal will be made available on the Exchange website, so that consumers may identify an agent/broker to assist them with enrollment. This information will be available on an ongoing basis, and will include the name and contact information for the agent/broker. This will include their name, address, telephone numbers, and email address provided during the registration process. Initial publication of this material is expected to occur in or around August 2013 (individual Exchange) and September 2013 (SHOP Exchange) for availability during open enrollment.

### **17. Expiration Date**

CMS would like an exemption from displaying the expiration date as these forms are expected to be used on a continuing basis.

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