

# **Supporting Statement for Essential Community Provider/Network Adequacy (ECP/NA) Data Collection to Support QHP Certification (CMS-10803/OMB control number: 0938-1415)**

## **A. Background**

In accordance with section 1311(c)(1)(C) of the Affordable Care Act (ACA), Qualified Health Plan (QHP) issuers, including Stand-alone Dental Plan (SADP) issuers, are required to ensure access to a sufficient number and geographic distribution of essential community providers (ECPs), where available, that serve predominantly low-income, medically underserved individuals. Under this same section of the ACA, the Secretary of the Department of Health and Human Services (HHS) is charged with establishing criteria for certification of health plans as QHPs, including criteria for issuer satisfaction of the ECP inclusion requirement. Under 45 Code of Federal Regulations (CFR) 156.235, the Secretary of HHS has established criteria for inclusion of a sufficient number and geographic distribution of ECPs, where available, in an issuer's network to ensure reasonable and timely access to a broad range of such providers for low-income, medically underserved individuals in their service areas.

In accordance with section 1311(c)(1)(B) of the ACA, QHP issuers, including SADP issuers, are required to ensure a sufficient choice of providers (in a manner consistent with the applicable provisions under section 2702(c) of the Public Health Service Act). Issuers must also provide information to current and prospective enrollees on the availability of in-network and out-of-network providers. Under CFR 156.230, QHPs must ensure that the network is sufficient in number and types of providers, including providers that specialize in mental health and substance use disorder services, to assure that all services will be accessible without unreasonable delay.

Beginning January 1, 2025, QHP issuers in the Federally-facilitated Exchanges (FfEs) must meet appointment wait time standards established at 45 CFR 156.230(a)(2)(B) and finalized in the 2023 Letter to Issuers<sup>1</sup>. To assess compliance with these standards, CMS is requiring medical QHP issuers in the FfEs to contract with a third-party entity to administer secret shopper surveys to providers. While SADPs will be required to comply with § 156.230(a)(2)(B), SADP issuers will not be required to contract with a third-party and report their findings during calendar year 2025.

At this time, CMS is seeking a revision of the approval for the information collection related to the satisfaction of these appointment wait time standards. These activities are necessary to ensure that CMS fulfills legislative mandates established by 1311(c)(1)(B) of the Affordable Care Act (ACA) to establish criteria for a "sufficient choice of providers" that was later codified under 156.230(a)(2)(B) to include appointment wait time standards that ensure all services will be accessible to enrollees without unreasonable delay.

## **B. Justification**

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<sup>1</sup> Section 3 (ii) (b) of the 2023 *Letter to Issuers* further outlines the specific quantitative metrics for measuring availability. Specifically, 10 business days for Behavioral Health, 15 business days for routine primary care, and 30 business days for non-urgent specialty care.

## 1. Need and Legal Basis

Standards for ECP requirements are codified at 45 CFR 156.235 and the network adequacy requirements are codified at 45 CFR 156.230. HHS will collect the following data elements from issuers. The ECP/NA template is provided in Appendix A and the Issuer Module Mockup is provided in Appendix B.

- **Essential Community Provider Data Elements:** To satisfy the ECP requirement, medical QHP and SADP issuers must complete and submit the ECP portions of the Essential Community Provider/Network Adequacy (ECP/NA) template as part of their QHP application, in which they must list the names and geographic locations of ECPs with whom they have contracted to provide health care services to low-income, medically underserved individuals in their service areas. If an issuer does not meet ECP standards, they must submit a completed ECP Justification Form to explain how the plan's provider network provides an adequate level of service for low-income enrollees or individuals residing in Health Professional Shortage Areas within the plan's service area and how the plan's provider network will be strengthened toward satisfaction of the ECP standard prior to the start of the benefit year.
- **Network Adequacy Data Elements:** To satisfy the time and distance requirements for network adequacy and reasonable access to providers, medical QHP and SADP issuers must complete and submit the network adequacy portions of the ECP/NA template. In the ECP/NA template, issuers must list the providers with whom they have contracted, including the provider's geographic location, specialty type and whether they offer telehealth services. This information in the ECP/NA template will be used to determine if an issuer satisfies the network adequacy time and distance standards. If an issuer does not meet time and distance standards, they must submit a completed Network Adequacy Justification Form to explain how the plan's provider network provides an adequate level of service for enrollees and how the plan's provider network will be strengthened and brought closer to compliance with the network adequacy standards prior to the start of the plan year.

Additionally, medical QHP issuers must collect and submit provider information necessary to demonstrate an issuer's satisfaction of appointment wait time standards. For plan year 2025, CMS requires issuers to collect secret shopper provider survey data on appointment wait times of primary care and behavioral health providers. Issuers must report secret shopper survey results (i.e., rate of compliance with appointment wait time standards) to CMS annually during post-certification compliance activities. These collections and submissions are to ensure that an issuer's network has fulfilled the network adequacy reasonable access standard found at 45 CFR 156.230. This information includes the rate of compliance with the appointment wait time standards for primary care and behavioral health providers and each in-network provider's geographic location and specialty. This information should only be collected and submitted for in-network providers that fall within the requisite time and distance metrics for the respective county type designation.

An issuer must report the offering of telehealth services for each individual provider participating in its network to help inform future development of network adequacy

standards. This requirement does not apply to facilities.

## 2. Information Users

The Exchange collects plan- and issuer-level data from issuers to facilitate the certification and recertification of QHPs, Exchange operations, other Federal operations, QHP oversight, and ongoing market analysis. All of these data are leveraged across multiple business areas in the Exchange to facilitate other operational tasks such as plan comparisons on the insurance portal and various payment activities, such as determination of the second lowest cost silver plan, APTCs, or risk adjustment.

HHS uses information submitted in the Issuer Module, on the ECP/NA template and via post-certification compliance reviews to determine if issuers meet the ECP and network adequacy standards. If issuers do not meet these standards, HHS uses the information to provide technical assistance to the issuer, which can include identifying potential areas for improvement. Issuers also can use the information collected to assess their alignment with ECP and network adequacy standards. Issuers can use the ECP Tool to calculate if they meet the ECP standards by running it on the completed ECP/NA template. It is critical to collect the provider data so that HHS can assess compliance with network adequacy and ECP standards to ensure that QHP enrollees have reasonable, timely access to a sufficient number and types of providers, including ECPs, to meet their health care needs.

## 3. Use of Information Technology

Issuers will complete the ECP/NA template (Appendix A) to submit information collected for the purposes of HHS' assessment of compliance with ECP and time and distance network adequacy standards. Issuers will use a secure file transfer protocol determined by HHS to submit information for purposes of HHS' assessment of compliance with appointment wait time standards.

HHS has engaged and continues to engage with states, issuers, and the National Association of Insurance Commissioners (NAIC) in the effort to develop data standards for QHP certification, risk adjustment, and other plan management activities, including ECP and network adequacy standards, that would make reporting to the Exchanges more streamlined for issuers across the country, and allow them to submit information in a manner that is standardized to the greatest extent possible.

HHS has updated the ECP/NA template and ECP and Network Adequacy justification process to reduce issuer burden where possible. The template updates include additional validations, which generate error messages that provide guidance to the issuer on how to resolve any identified errors or incomplete data fields to assist the issuer with validating and submitting the template to HHS. The ECP List is also embedded within the ECP/NA template, which reduces issuer burden since they can select ECPs from the list, rather than the issuer having to collect the provider data themselves. The ECP/NA template is programmed to auto-populate the majority of the ECP data for the issuer once the issuer has selected the providers with whom they contract from the ECP List that is embedded within the template. Additionally, HHS has updated the ECP Justification Form and created a new Network Adequacy Justification Form. If issuers do not meet one or

more elements of the ECP and/or network adequacy standards, issuers will receive a partially pre-populated Network Adequacy Justification Form and/or ECP Justification Form from CMS. Issuers will complete all the required fields within the applicable form(s) and submit to CMS by the required deadline. This justification process provides greater transparency and further reduces issuer burden by clearly identifying needed corrections and required fields for the issuer to complete a satisfactory justification to support their QHP certification.

#### 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

QHPs will be certified utilizing an annual certification process. We will continue to reassess the certification and recertification burden and make every effort to minimize burden as much as possible in the future. Since provider information and provider contracts with issuers change on an ongoing basis, HHS requires QHP issuers to submit annually the provider information that impacts compliance with the ECP and network adequacy standards. It is important to collect ECP/NA template data and secret shopper survey data on an annual basis in order to ensure that QHPs being sold on the FFE meet the ACA requirements for ECP and network adequacy. If HHS were to institute less frequent collection of said data, there would be a risk that QHP enrollees may not have access to ECPs and other provider specialties to meet their health care needs.

#### 7. Special Circumstances

There are no anticipated special circumstances.

#### 8. Federal Register/Outside Consultation

This ICR was published as part of the Payment Notice Proposed Rule in the Federal Register on 11/24/2023 (V. 88, No. 225) for the public to submit written comment as part of a first-round public comment period. No public comments were received.

This ICR will be published as part of the Payment Notice Final Rule in the Federal Register on XX/XX/2024 as part of a second-round public comment period for the public to submit written comment.

No additional outside consultation was sought.

#### 9. Payment/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 155.260, Privacy and Security of Personally Identifiable Information. Pursuant to this regulation, Marketplaces 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. Average labor costs (including 100 percent fringe benefits) used to estimate the costs are calculated using data available from the May 2022 National Industry-Specific Occupational Employment and Wage Estimates from the Bureau of Labor Statistics (BLS) website: [https://www.bls.gov/oes/current/oes\\_stru.htm](https://www.bls.gov/oes/current/oes_stru.htm).

**Table 1. Adjusted Hourly Wages Used in Burden Estimates for the ECP/NA Template and Appointment Wait Time Secret Shopper Data Collection**

Occupation Title	Occupational Code	Median Hourly Wage (\$/hour)	Fringe Benefits & Overhead (100%) (\$/hour)	Adjusted Hourly Wage (\$/hour)
Business Operations Specialist	13-1199	\$ 36.53	\$ 36.53	\$73.06
Compliance Officer	13-1041	\$34.47	\$34.47	\$68.94
General and Operations Manager	11-1021	\$47.16	\$47.16	\$94.32

### **Burden for QHP Issuers for the ECP/NA Template Data Collection**

We estimate that it will take approximately 6 hours for a Business Operations Specialist to identify and prepare the provider network data in the issuer's system to be entered by the Compliance Officer into the ECP/NA template, including identifying and formatting the National Provider Identifier (NPI), provider name, provider address, provider specialty type(s), telehealth availability, network ID(s), and other required fields for each respective provider participating in the issuer's network. We expect that the Compliance Officer will spend approximately 10 hours entering these provider data into the ECP/NA template, and the General and Operations Manager will spend approximately 4 hours conducting a data quality review and submitting the ECP/NA template to CMS.

The burden estimate includes collecting and reviewing network adequacy data starting in PY2025. The number of issuers is based on the number of applications for PY2024. This estimate is based on an assumed 171 issuers each offering 16 plans. The burden on QHP issuers

for the ECP/NA template data collection per year is estimated to be 3,420 burden hours with a cost of \$257,361.84.

Pursuant to 45 CFR 156.235, an issuer must include a sufficient number and geographic distribution of ECPs to ensure access for low-income, medically underserved individuals. Pursuant to 45 CFR 156.230, an issuer must collect provider information necessary to demonstrate an issuer's satisfaction of time and distance standards and report the offering of telehealth services for each provider. Table 2 displays the burden for QHP issuers for the ECP/NA template.

**Table 2. Burden for QHP Issuers for the ECP/NA Template Data Collection**

<b>Labor Category</b>	<b>Number of Respondents</b>	<b>Hourly Labor Costs (Hourly rate + 100% Fringe benefits)</b>	<b>Burden Hours</b>	<b>Total Burden Costs (Per Respondent)</b>	<b>Total Burden Cost (All Respondents)</b>
Business Operation Specialist	171	\$73.06	6	\$438.36	\$74,959.56
Compliance Officer	171	\$68.94	10	\$689.40	\$117,887.40
General and Operations Manager	171	\$94.32	4	\$377.28	\$64,514.88
<b>Total – Annual</b>			<b>3,420</b>		<b>\$257,361.84</b>
<b>Total – Three Years</b>			<b>10,260</b>		<b>\$772,085.52</b>

#### **Burden for Stand-Alone Dental Issuers for the ECP/NA Template Data Collection**

We estimate that it will take approximately 1 hour for a Business Operations Specialist to identify and prepare the provider network data in the issuer's system to be entered by the Compliance Officer into the ECP/NA template, including identifying and formatting the National Provider Identifier (NPI), provider name, provider address, provider specialty type(s), telehealth availability, network ID(s), and other required fields for each respective provider participating in the issuer's network. We expect that the Compliance Officer will spend approximately 2 hours entering these provider data into the ECP/NA template, and the General and Operations Manager will spend approximately 1 hour conducting a data quality review and submitting the ECP/NA template to CMS.

The burden estimate includes collecting and reviewing network adequacy and ECP data starting in PY2025. The number of issuers is based on the number of applications for PY2024. This estimate is based on 194 issuers each offering 3 plans. The burden on stand-alone dental issuers for the ECP/NA template data collection each year is estimated to be 776 total burden hours with a cost of \$59,220.44.

Pursuant to 45 CFR 156.235, an issuer must include a sufficient number and geographic distribution of ECPs to ensure access for low-income, medically underserved individuals.

Pursuant to 45 CFR 156.230, an issuer must collect provider information necessary to demonstrate an issuer's satisfaction of time and distance standards and report the offering of telehealth services for each provider. Table 3 displays the burden for stand-alone dental issuers for the ECP/NA template.

**Table 3. Burden for Stand-Alone Dental Issuers for the ECP/NA Template Data Collection**

<b>Labor Category</b>	<b>Number of Respondents</b>	<b>Hourly Labor Costs (Hourly rate + 100% Fringe benefits)</b>	<b>Burden Hours</b>	<b>Total Burden Costs (Per Respondent)</b>	<b>Total Burden Cost (All Respondents)</b>
Business Operation Specialist	194	\$73.06	1	\$73.06	\$14,173.64
Compliance Officer	194	\$68.94	2	\$137.88	\$26,748.72
General and Operations Manager	194	\$94.32	1	\$94.32	\$18,298.08
<b>Total – Annual</b>			<b>776</b>		<b>\$59,220.44</b>
<b>Total – Three Years</b>			<b>2,328</b>		<b>\$177,661.32</b>

#### **Burden for QHP Issuers for the Appointment Wait Time Secret Shopper Data Collection**

The estimated burden for issuers associated with the appointment wait time secret shopper data collection is based on the following assumptions and definitions:

**Reporting Units.** CMS is requiring medical QHP issuers in the FFEs to contract with a third-party entity to administer secret shopper surveys to a statistically valid sampling of their primary care and behavioral health providers, per unique issuer network, to assess compliance with appointment wait time standards. While SADPs will be required to comply with § 156.230(a)(2)(B), SADP issuers will not be required to contract with a third-party and report their findings during calendar year 2025. For purposes of computing burden calculations, CMS is estimating a total of 305 unique issuer networks among 171 medical QHP issuers. We further estimate each medical QHP issuer has an average of 1.8 unique issuer networks. Therefore, we estimate that each medical QHP issuer will execute a secret shopper survey of providers in 1.8 unique issuer networks. For each unique issuer network surveyed, results will be reported.

**Survey Preparation.** CMS estimates it may take, on average, 40 hours per issuer for a Business Operations Specialist to engage in the activities necessary to execute a contract with a third-party survey entity to administer the provider secret shopper surveys, to include development and release of a request for proposals (RFP), review of proposal submissions, selection of a vendor, and contract execution.

We estimate that it may take, on average, 48 hours for a Business Operations Specialist on behalf of the issuer and third party to develop and prepare a survey script, sampling frame, and data collection protocol.

We further estimate it may take, on average, on behalf of each third party and QHP issuer, 8 hours for a General and Operations manager to train 15 Compliance Officers. It will take the Compliance Officers 120 hours to complete the training in order to execute the secret shopper calls to providers.

In summary, we estimate it will take 216 hours per medical QHP issuer to hire a survey vendor, prepare the survey, and train the necessary staff to execute the survey.

**Survey vendors.** CMS is not prescribing a list of survey vendors to use for the appointment wait time provider secret shopper survey. However, the results of each survey must follow the general submission requirements that will be outlined in future guidance.

**Survey Administration.** The estimated the number of hours it will take a Compliance Officer, employed by the survey vendor, to administer secret shopper survey calls to providers is based on summing a statistically-valid sample size drawn from the average number of primary care providers in medical QHPs' provider networks and a statistically valid sample size drawn from the average number of behavioral health providers in medical QHPs' provider networks. We estimate it will take 0.9 hours for a Compliance Officer to call each provider.

Accordingly, we estimate it will take an average of 1,166 hours per medical QHP issuer (estimating an average of 1.8 unique issuer networks per medical QHP issuer) for survey vendors to complete the necessary number of secret shopper phone calls to providers and record the findings.

**Data analysis and reporting.** Once the minimum necessary number of survey phone calls are executed and raw data is recorded, we estimate that a General and Operations Manager will review survey materials and analyze and transform the raw data in preparation for reporting this information to CMS. We estimate that it may take up to 50 hours, on average, for a General and Operations Manager to review results, compile the analysis and submit the final report. Lastly, we anticipate that it may take a General and Operations Manager an additional 2 hours for the results from the survey to be shared by the vendor, approved by the issuer, and prepared for submission to CMS. In sum, we estimate it will take 52 hours per issuer to analyze the survey data and report the results to CMS.

CMS estimates 171 medical QHP issuers to obtain survey results from an average of 720 providers in each of the 305 unique issuer networks. We estimate it will take 245,214 hours with a cost of \$17,227,449.72 for all QHP issuers to engage in all of the activities necessary to complete this data collection, to include selection of a survey vendor, survey development, training and administration, and data analysis and reporting.

Pursuant to 45 CFR 156.230(a)(2)(B) QHP issuers in the FFEs must meet appointment wait time standards. Table 4 displays the burden for all QHP issuers for the appointment wait time secret shopper.



**Table 4: Burden for all QHP Issuers for the Appointment Wait Time Secret Shopper Data Collection**

<b>Labor Category</b>	<b>Number of Respondents</b>	<b>Hourly Labor Costs (Hourly rate + 100% Fringe benefits)</b>	<b>Burden Hours</b>	<b>Total Burden Costs (Per Respondent)</b>	<b>Total Burden Cost (All Respondents)</b>
<b>Survey Preparation</b>					
Compliance Officer	171	\$68.94	120	\$8,272.80	\$1,414,648.80
Business Operations Specialist	171	\$73.06	88	\$6,429.28	\$1,099,406.88
General and Operations Manager	171	\$94.32	8	\$754.56	\$129,029.76
<b>Survey Administration</b>					
Compliance Officer	171	\$68.94	1,166	\$80,384.04	\$13,745,670.84
<b>Survey Analysis</b>					
General and Operations Manager	171	\$94.32	52	\$4,904.64	\$838,693.44
<b>Total – Annual</b>			<b>245,214</b>		<b>\$17,227,449.72</b>
<b>Total – Three Years</b>			<b>735,642</b>		<b>\$51,682,349.16</b>

**Table 5. Summary of Annual Total Burden for the ECP/NA and Appointment Wait Time Data Collections**

<b>Table Number: Name</b>	<b>CFR Section</b>	<b>Total Burden Hours</b>	<b>Total Burden Costs</b>
Table 2: Burden for QHP Issuers for ECP/NA Template Data Collection	45 C.F.R. § 156.230, 156.235	3,420	\$257,361.84
Table 3: Burden for Stand-Alone Dental Issuers for ECP/NA Template Collection	45 C.F.R. § 156.230, 156.235	776	\$59,220.44
Table 4: Burden for all QHP Issuers for the Appointment Wait Time Secret Shopper Data Collection	45 C.F.R. § 156.230(a)(2)(B),	245,214	\$17,227,449.72
<b>Total - Annual</b>		<b>249,410</b>	<b>\$17,544,032</b>

### 13. Capital Costs

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

### 14. Cost to Federal Government

We estimate the operations and maintenance costs and the data collection support for both the ECP/NA and appointment wait time data collections to have a total cost of \$1,655,820 per year. The calculations for CCIIO employees' hourly salary was obtained from the OPM website:

[https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/24Tables/html/GS\\_h.aspx](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/24Tables/html/GS_h.aspx)

**Table 6. Annual Administrative Burden Costs for the Federal Government Associated with the ECP/NA Data Collection**

<b>Task</b>	<b>Estimated Cost</b>
<b>ECP/NA Data Collection</b>	
Operations, maintenance, and data collection support	
2 GS-13 (step 1): 2 x \$84.82 <sup>1</sup> x 1,800 hours	\$305,352
Federal Contractors	\$717,624
Total ECP/NA Costs	\$1,022,976
<b>Appointment Wait Time Data Collection</b>	
Operations, maintenance, and data collection support	
2 GS-13 (step 1): 2 x \$84.82 <sup>1</sup> x 1,800 hours	\$305,352
Federal Contractors	\$327,492
Total Appointment Wait Time Costs	\$632,844
<b>Total Costs to Government</b>	<b>\$1,655,820</b>

<sup>1</sup> Hourly basic rate of \$42.41 + 100% fringe benefit rate.

## 15. Changes to Burden

There is an overall increase in the financial burden for this ICR because of the substantive addition of the activities associated with medical QHP issuers in FFEs needing to contract with a third party to administer secret shopper provider surveys to a statistically valid sample of network providers to assess compliance with appointment wait time standards. As a result, the total burden hours increased from 5,380 hours to 249,410 hours, which is an increase of 244,030 hours.

## 16. Publication/Tabulation Dates

The information collected on the ECP/NA template submitted by issuers within the Issuer Module is used to assess compliance with ECP and network adequacy standards for the purpose of the QHP certification process. The secret shopper provider survey information collected annually from issuers is used to assess compliance with network adequacy standards for the purpose of the QHP certification process. These data are not made public.

## 17. Expiration Date

The expiration date and OMB control number will appear on the first page of the instrument in

the top right corner.