

**Supporting Statement for Paperwork Reduction Act Submission**  
**Rate Increase Disclosure and Review Requirements**  
**(45 CFR Part 154)**  
**(CMS – 10379/OMB Control Number 0938-1141)**

**A. Background**

The Patient Protection and Affordable Care Act (Pub. L. 111–148) was enacted on March 23, 2010 and the Health Care and Education Reconciliation Act (Pub. L. 111–152) was enacted on March 30, 2010 (collectively known as “the “Affordable Care Act.”). The Affordable Care Act reorganizes, amends, and adds to the provisions of Part A of title XXVII of the Public Health Service Act (PHS Act) relating to group health plans and health insurance issuers in the group and individual markets.

Section 1003 of the Affordable Care Act added section 2794 to the PHS Act which directs the Secretary of the Department of Health and Human Services (the Secretary), in conjunction with the states, to establish a process for the annual review of “unreasonable increases in premiums for health insurance coverage.” The statute provides that health insurance issuers must submit justifications for unreasonable premium increases to the Secretary and the applicable state prior to the implementation of the increases. Section 2794 also specifies that the Secretary, in conjunction with the states, shall monitor premium increases for health insurance coverage offered through an Exchange and outside of an Exchange.

**B. Justification**

**1. Need and Legal Basis**

45 CFR Part 154 implements the annual review of unreasonable increases in premiums for health insurance coverage called for by section 2794. The regulation established a rate review program to ensure that all rate increases that meet or exceed an established threshold are reviewed by a state or the Centers for Medicare and Medicaid Services (CMS) to determine whether the rate increases are unreasonable. Accordingly, issuers offering non-grandfathered health insurance coverage in the individual and/or small group markets are required to submit Rate Filing Justifications to CMS. Section 154.103 exempts grandfathered health plan coverage as defined in 45 CFR §147.140, excepted benefits as described in section 2791(c) of the PHS Act, and student health insurance coverage as defined in §147.145 from Federal rate review requirements.

Section 154.200(a)(1) provides that a rate increase for single risk pool coverage is subject to reasonableness review if: (1) the average increase, including premium rating factors described in §147.102, for all enrollees, weighted by premium volume for any plan within the product, meets or exceeds 15 percent; or (2) the increase exceeds a state-specific threshold approved by the Secretary.

The Rate Filing Justification consists of three parts. All issuers must submit a Uniform Rate Review Template (URRT) (Part I of the Rate Filing Justification) for all single risk pool plans. The URRT is intended to capture information needed to monitor rate increases and ensure

compliance with the single risk pool methodology and other federal rating requirements. The URRT currently in use is Version 5.4. That version contains three worksheets: Worksheet 1 “Market Experience”; Worksheet 2 “Plan & Product Information”; and Worksheet 3 “Rating Areas.”

Issuers that submit a rate filing that includes a plan that meets or exceeds the threshold must include a written description justifying the rate increase, also known as the consumer justification narrative (“narrative”; Part II of the Rate Filing Justification). We note that the threshold set by CMS constitutes a minimum standard and most states currently employ stricter rate review standards and may continue to do so.

Issuers offering a qualified health plan (QHP) or any single risk pool submission containing a rate increase of any size must submit an actuarial memorandum (Part III of the Rate Filing Justification).

For each rate increase that is under review, either CMS or the state will prepare a final determination as to whether the proposed rate increase is unreasonable or not, as well as a brief explanation of relevant review findings.

Prior to March 2022, all issuers in the individual and small group market were submitting rate filing justifications via the Unified Rate Review (URR) module within CMS’s Health Insurance Oversight System (HIOS). In most states, issuers were also submitting the same rate filing data and forms into the National Association of Insurance Commissioners’ (NAIC) System for Electronic Rates & Forms Filing (SERFF). Most state reviewers were submitting their reasonableness determinations into both systems. That process resulted in a duplication of efforts in 47 states and the District of Columbia.

In order to decrease the burden on issuers and states, CMS and the NAIC development teams established a system connection between SERFF and HIOS. This connection allows automatic data and file transfers between the two systems to reduce duplicative manual entry work and therefore reduce the burden for issuers and state reviewers.

The new system connection is available in most states for filings created after March 25, 2022. It is not applicable to states without an Effective Rate Review Program (currently Oklahoma and Wyoming), or states that do not utilize SERFF (currently Florida). The issuers in those states will continue to submit filings directly into the HIOS URR module.

## **2. Information Users**

CMS will post on its website the information contained in each Rate Filing Justification for each proposed rate increase.<sup>1</sup> States have the option to post the information in the Rate Filing Justification that CMS makes available on its website or provide a hyperlink to the publicly available portions posted on the CMS website. This information is provided to increase

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<sup>1</sup> CMS will make available to the public on its website the information contained in Parts I and III of each Rate Filing Justification that is not a trade secret or confidential commercial or financial information as defined in HHS's Freedom of Information Act regulations, 45 CFR 5.31(d).

transparency and to allow for public comments on proposed rate increases. For consumer clarity, CMS will also post on its website the final disposition of each rate increase that was subject to review under the regulation by either CMS or a state.

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

Health insurance issuers and states will provide rate review information in one of two ways. In states without an Effective Rate Review Program, or states that do not utilize SERFF, states and issuers will continue to provide the information via HIOS — a web-based data collection system that is currently used by states and issuers to provide information for the healthcare.gov website.<sup>2</sup> In all other states, the information will be provided via SERFF. All data submissions will be made electronically and no paper submissions are permitted.

The rate review information that is uploaded and stored in HIOS will also be used to provide consumer-oriented information about rate increases on the Healthcare.gov website.

### **4. Duplication of Similar Information**

There is no duplication of information requirements in any other collection.

### **5. Small Businesses**

Small businesses are not affected by this collection as health insurance issuers are generally not small businesses.

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

Section 2794 of the PHS Act requires health insurance issuers to provide justifications for rate increases prior to implementation. Therefore, a less frequent collection cannot be considered for this information collection.

### **7. Special Circumstances**

No special circumstances exist for this information collection.

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

A Federal Register Notice (87 FR 51987) was published on August 24, 2022, providing the public with a 60-day period to submit written comments on the information collection requirements (ICRs). No public comments were submitted. Another Federal Register Notice will be published providing the public with an additional 30-day period to submit written comments.

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

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<sup>2</sup> Additional PRA-related information regarding HIOS is provided in the Web Portal PRA package (Health Care Reform Insurance Web Portal Requirements 45 CFR part 159, OMB control number 0938-1086).

There will be no payments or gifts to respondents.

#### **10. Confidentiality**

CMS will make available to the public on its website the information contained in each Rate Filing Justification that is not considered a trade secret or confidential commercial or financial information and is approved for release under the Freedom of Information Act.

#### **11. Sensitive Questions**

There are no sensitive questions included in this collection effort. The Department of Health and Human Services (HHS) does not propose to collect any private information.

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

##### Adjusted Hourly Wages Used in Burden Estimates

Occupation Title	Occupational Code	Mean Hourly Wage (\$/hour)	Cost of Fringe Benefits and Other Indirect Costs (\$/hour)	Adjusted Hourly Wage (\$/hour)
Actuary	15-2011	\$60.24	\$60.24	\$120.48
Actuary (State Government)	15-2011	\$46.60	\$46.60	\$93.20

Average labor costs (which include a 100 percent increase of the mean hourly wage rate to account for the cost of fringe benefits and other indirect costs) are calculated using data available from the Bureau of Labor Statistics.<sup>3</sup>

#### **Submission of Unified Rate Review Templates (URRTs) (Part I of Rate Filing Justification)**

Based on the number of URRTs submitted in the 2021 calendar year (for the 2022 plan year), we expect to receive a total of approximately 820 URRT submissions per year from approximately 626 issuers. We expect 777 of those to be submitted by issuers in states that have an Effective Rate Review Program and use SERFF. We expect 43 of those to be submitted, via HIOS, by issuers in states without an Effective Rate Review Program or that do not use SERFF.<sup>4</sup>

When the URRT is submitted into SERFF, the data and files will automatically transfer to HIOS, reducing the burden of duplicative manual entry of rate filings. Due to the system connection between SERFF and HIOS, we estimate that issuers in states that have an Effective Rate Review Program and use SERFF will experience a 1 hour reduction in burden for each URRT

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<sup>3</sup> May 2021 Occupational Employment Statistics found at [https://www.bls.gov/oes/current/oes\\_nat.htm](https://www.bls.gov/oes/current/oes_nat.htm) and [https://www.bls.gov/oes/current/naics4\\_999200.htm](https://www.bls.gov/oes/current/naics4_999200.htm).

<sup>4</sup> As previously noted, Oklahoma and Wyoming do not have an Effective Rate Review Program and Florida does not use SERFF.

submission. Therefore, we estimate that it will take an actuary 8 hours (at an hourly rate of \$120.48) to prepare and submit the URRT, with an associated annual cost of approximately \$964. Therefore, we estimate the total annual burden for all issuers in those states to be approximately 6,216 hours with an associated annual cost of approximately \$748,904.

For issuers that must submit the URRT into SERFF and also submit directly into HIOS, it will take an actuary 9 hours (at an hourly rate of \$120.48) to prepare and submit each URRT, with an associated cost of approximately \$1,084. The total annual burden for all issuers submitting directly into HIOS will be 387 hours, with an associated annual cost of approximately \$46,626.

The total annual burden for all issuers to prepare and submit URRTs will be 6,603 hours with an associated total cost of approximately \$795,529.

### **Submission of Consumer Justification Narrative (Part II of Rate Filing Justification)**

Based on submission data from 2021, we estimate that the number of narratives submitted annually will be 91. We expect 87 of those to be submitted in states that have an Effective Rate Review Program and use SERFF. We expect 4 of those to be submitted, via HIOS, by issuers in states without an Effective Rate Review Program or in states that do not use SERFF. Issuers that no longer need to submit into HIOS and only submit into SERFF will experience a reduction in burden of 0.5 hours for each narrative.

For those issuers that will submit only into SERFF, we estimate that it will take an actuary 1 hour (at an hourly rate of \$120.48) to prepare and submit each narrative, with an associated cost of approximately \$120. Therefore, we estimate a total annual burden for all issuers in states that have an Effective Rate Review Program and use SERFF to be approximately 87 hours with an associated annual cost of approximately \$10,482.

For issuers that must submit the narrative both to SERFF and directly into HIOS, we estimate that an actuary will require 1.5 hours (at an hourly rate of \$120.48) to prepare and submit each narrative, with an associated cost of approximately \$181. The total annual burden for all issuers that will submit the narrative directly into HIOS will be 6 hours with an associated annual cost of approximately \$723.

The total annual burden for all issuers to prepare and submit consumer justification narratives will be 93 hours with an associated total cost of approximately \$11,205.

### **Submission of Actuarial Memorandum (Part III of Rate Filing Justification)**

Based on submission data from 2021, we estimate the number of actuarial memoranda submitted will be 820 annually. We expect 777 of those to be submitted in states that have an Effective Rate Review Program and use SERFF. We expect 43 of those to be submitted by issuers in states without an Effective Rate Review Program or states that do not use SERFF. Issuers that no longer need to submit into HIOS and only submit into SERFF will experience a reduction in burden of 0.5 hours for each actuarial memorandum.

For issuers that submit only into SERFF, we estimate that an actuary will require 13.5 hours (at an hourly rate of \$120.48) to prepare and submit each actuarial memorandum, with an associated annual cost of approximately \$1,626. Therefore, the total annual burden for all issuers in states that have an Effective Rate Review Program and use SERFF will be approximately 10,490 hours with an associated annual cost of approximately \$1,263,775.

For issuers that must submit both into SERFF and directly into HIOS, we estimate that an actuary will require 14 hours (at an hourly rate of \$120.48) to prepare and submit each actuarial memorandum, with an associated cost of \$1,687. The total annual burden will be 602 hours with an associated annual cost of approximately \$72,529.

The total annual burden for all issuers to prepare and submit the actuarial memoranda will be 110,912 hours with an associated total cost of approximately \$1,336,304.

**Table 12.1 – Estimated Annualized Burden Hours and Costs for Rate Filing Justification for Issuers**

	Number of URRTs	Estimated Total Burden Hours for URRT	Number of consumer justification narratives	Estimated Total Burden Hours for narratives	Number of actuarial memoranda	Estimated Total Burden Hours for Actuarial Memos	Estimated Total Burden Hours for all 3 parts of Rate Filing	Estimated Total Cost for 3 parts of Rate Filing
<b>Issuers in OK, WY and FL<sup>5</sup></b>	43	387	4	6	43	602	995	\$119,878
<b>Issuers in all other states</b>	777	6,216	87	87	777	10,490	16,793	\$2,023,160
<b>Total</b>	820	6,603	91	93	820	11,092	17,788	\$2,143,038

### **Review of Rate Filing Justifications by State Reviewers**

Previously, in the Supporting Statement published on January 24, 2019,<sup>6</sup> CMS erroneously accounted for the burden to review the consumer justification narrative, providing an estimate of 38.5 hours. That estimate was the approximate number of hours for state personnel to review the entire rate filing, not just the consumer justification narrative.

We estimate the total annual burden and costs for state reviewers in states that have an Effective Rate Review Program and use SERFF to decrease by 1.5 hours, since those reviewers can record their rate review determination into only one system. We estimate, for each of those states, an

<sup>5</sup> These states will continue to submit filings into the HIOS system rather than using SERFF, so their burden estimate is higher than other states' burden estimates.

<sup>6</sup> 84 Fed. Reg. 358 (Jan. 24, 2019). <https://www.regulations.gov/document/CMS-2019-0012-0001>

actuary will require approximately 37 hours (at an hourly rate of \$93.20) to review the issuers' filings and to prepare and submit their determination, with an associated cost of approximately \$3,448. Therefore, we estimate a total annual burden of 28,749, with an associated annual cost of \$2,679,407.

We estimate that in Florida, state reviewers will review 13 Rate Filing Justifications and that an actuary will require 38.5 hours (at an hourly rate of \$93.20) to review each justification, with an associated cost of \$3,495. The total annual burden to review all Rate Filing Justifications in Florida will be approximately 488 hours, with an associated annual cost of approximately \$45,435.

For all states that have an Effective Rate Review Program and use SERFF, the total annual burden to review all Rate Filing Justifications will be 29,237 hours with an associated annual cost of approximately \$2,724,842.

Table 12.2 – Estimated Annualized Burden Hours and Costs for Review of Rate Filing Justification by State Reviewers<sup>7</sup>

	<b>Total Number of Submissions</b>	<b>Burden Hours per Submission</b>	<b>Cost per Submission</b>	<b>Total Burden Hours</b>	<b>Total Cost</b>
<b>State reviewers in FL<sup>8</sup></b>	13	38.5	\$3,495	488	\$45,435
<b>State reviewers excluding OK, WY and FL</b>	777	37	\$3,448	28,749	\$2,679,096
<b>Total</b>	790			29,237	\$2,724,842

### **13. Capital Costs**

Issuers and states will not incur capital costs to fulfill these requirements.

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

CMS reviews rate increases that meet or exceed the review threshold in a state that does not have an Effective Rate Review Program. This activity is conducted with the use of contracted services. In light of new state legislation and regulations, CMS determined that Texas now has an Effective Rate Review Program and can review their own issuer's submissions beginning with all plans with an effective date on or after 1/1/2023.<sup>9</sup> Therefore, CMS estimates that the number of submissions it reviews will decrease by approximately 35 submissions per year starting with

<sup>7</sup> There is no burden estimate for state review in Oklahoma and Wyoming because they do not have an Effective Rate Review Program (CMS reviews rate filings in those two states).

<sup>8</sup> Florida does not utilize SERFF so the burden estimate accounts for hours spent reviewing a filing and submitting a state determination into HIOS.

<sup>9</sup> The state of Texas gained effective rate review status in April 2022.

the 2023 plan year, expecting to review approximately 20 submissions for only Oklahoma and Wyoming. We estimate the review will take approximately 38.5 hours per submission; the total time to review 20 submissions for states without an Effective Rate Review Program will therefore take 770 hours. Assuming the use of contracted services at the rate of \$285 per hour, the total cost to review rate filings for Oklahoma and Wyoming is approximately \$219,323.

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

There is an overall decrease in burden hours associated with this information collection.

As a result of the new system connection between SERFF and HIOS, issuers in 47 states and the District of Columbia will only have to submit Rate Filing Justifications into SERFF and no longer duplicate efforts by submitting the same information into HIOS as well. The reduction in burden will be 1 hour for each URRT (from 9 to 8), 0.5 hours for each consumer justification narrative (from 1.5 to 1) and 0.5 hours for each actuarial memorandum (from 14 to 13.5). We also estimate a reduction in the total number of Rate Filing Justifications that will be submitted (from 916 to 820). As a result, the total burden to issuers has decreased by 2,453 hours (from 20,240 to 17,788).

### **16. Publication and Tabulation Dates**

As part of consumer transparency and disclosure, information from the Rate Filing Justifications will be posted by HHS for all proposed rate increases and for all final rate changes. A final disposition of the rate review will also be posted and, if the rate change is identified as unreasonable and implemented by the issuer, the issuer must also post a final justification as defined in regulations within 10 business days.<sup>10</sup>

### **17. Expiration Date**

The expiration date will be displayed on the first page of each instrument (top, right-hand corner).

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<sup>10</sup> See 45 CFR 154.230. The Final Justification must be posted on the issuer's website and will also be posted at <https://ratereview.healthcare.gov/>