

**Supporting Statement Part A**  
**Medical Loss Ratio (MLR) Data Form for Medicare Advantage (MA) Plans and**  
**Prescription Drug Plans (PDP)**  
**CMS-10476, OMB 0938-1232**

*Note: Supporting regulations are contained in 42 CFR 422.2400, 422.2401, 422.2410, 422.2420, 422.2430, 422.2440, 422.2450, 422.2460, 422.2470, 422.2480, 422.2490, 423.2300, 423.2401, 423.2410, 423.2420, 423.2430, 423.2440, 423.2450, 423.2460, 423.2470, 423.2480, and 423.2490.*

**Background**

Sections 1857(e)(4) and 1860D-12 of the Social Security Act (which incorporates section 1857(e)(4) by reference), and implementing regulations at 42 CFR part 422, subpart X, and part 423, subpart X, set forth a requirement that Medicare Advantage (MA) organizations and Part D Prescription Drug Plan (PDP) sponsors report the medical loss ratio (MLR) for each MA or Part D contract to CMS for each contract year, and that such MLRs must meet a statutory standard of 85 percent. MA organizations and Part D sponsors are subject to sanctions for failure to meet the 85 percent minimum MLR requirement, including remittance of funds to CMS, a prohibition on enrolling new members, and, ultimately, contract termination.

Under the MLR reporting requirements that were in effect for contract years (CYs) 2014 through 2017, each MA organization and Part D sponsor was required to submit an MLR Report to CMS that included the data needed by the MA organization or Part D sponsor to calculate and verify the MLR and remittance amount, if any, for each contract such as the amount of incurred claims, expenditures on quality improving activities, non-claims costs, taxes, licensing and regulatory fees, total revenue, and any remittance owed to CMS. §§ 422.2460(a) and 423.2460(a). In the Contract Year 2019 Policy and Technical Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Programs final rule (CMS-4182-F; RIN 0938-AT08) (hereinafter referred to as the April 2018 final rule), CMS revised the MLR reporting requirements so that, starting with CY 2018, MA organizations and Part D sponsors are only required to report the MLR and remittance amount (if any) for each contract, but they are not required to submit the underlying information needed to calculate and verify the MLR and remittance amount. §§ 422.2460(b) and 423.2460(b). CMS uses the submitted information to determine whether an MA or Part D contract has satisfied the minimum MLR requirement with respect to a contract year, and whether the contract must remit funds to CMS or face additional sanctions.

In our February 18, 2020 (85 FR 9002) rule (CMS-4190-P, RIN 0938-AT97) (hereinafter referred to as the February 2020 final rule), we amended § 422.2440 to provide for the application of a deductible factor to the MLR calculation for MA MSA (medical savings account) contracts that receive a credibility adjustment. Our currently approved (active) information collection request takes into account the additional burden for MA organizations to calculate and apply the deductible factor to the MLR calculation.

In our January 6, 2022 proposed rule (FR citation) (CMS-4192-P, RIN 0938-AU30) (hereinafter referred to as the January 2022 proposed rule), we proposed to amend §§ 422.2460 and 423.2460 to reinstate the detailed MLR reporting requirements that were in effect for CYs 2014 through 2017. In addition, we proposed to expand those detailed reporting requirements to include separate reporting of amounts spent on MA supplemental benefits.

We proposed to revise our currently approved (active) information collection request to take into account (1) the additional burden for MA organizations and Part D sponsors to report their MLRs under the proposed reporting requirements; (2) the elimination of the burden for MA organizations to calculate and apply the deductible factor to the MLR calculation for MA MSA contracts because the software used to report Medicare MLRs under the proposed requirements would automatically calculate this burden.

## **A. Justification**

### 1. Need and Legal Basis

The Patient Protection and Affordable Care Act (Pub. L. 111–148), was enacted on March 23, 2010; the Health Care and Education Reconciliation Act (Pub. L. 111–152) (“Reconciliation Act”), was enacted on March 30, 2010. Section 1103 of Title I, Subpart B of the Reconciliation Act amended section 1857(e) of the Social Security Act (the Act) by adding a minimum medical loss ratio (MLR) requirement to the MA program. An MLR is expressed as a percentage, generally representing the percentage of revenue used for patient care, rather than for such other items as administrative expenses or profit. Because section 1860D–12(b)(3)(D) of the Act incorporates by reference the requirements of section 1857(e), the minimum MLR requirement also apply to the Part D program. The MLR requirement for the MA and Part D programs took effect in contract year 2014.

Under the minimum MLR requirement, MA organizations and Part D sponsors are subject to financial and other penalties for a failure to meet the statutory requirement that they have an MLR of at least 85 percent. The statute requires several levels of sanctions for failure to meet the 85 percent minimum MLR requirement, including remittance of funds to CMS, a prohibition on enrolling new members, and, ultimately, contract termination.

In our May 23, 2013 final rule (78 FR 31284) regarding the implementation of these new MLR requirements for the MA and Part D programs, we established the requirement that MA organizations and Part D sponsors (collectively referred to as “plan sponsors” in this Supporting Statement) submit contract-level MLR data on an annual basis (§§ 422.2460 and 423.2460). However, in April 2018 final rule (CMS-4182-F; RIN 0938-AT08), we finalized that, for contract year 2018 data (submitted in 2019) and for subsequent contract years, this annual data submission for each contract year would consist of either (a) the MLR and the amount of any remittance due to CMS, for each credible or partially credible contract; or (b) a submission noting that the contract is not subject to the 85 percent minimum MLR requirement and the remittance requirement, for each non-credible contract.

Our February 2020 final rule (CMS-4190-F, RIN 0938-AT97) amended § 422.2440 to provide for the application of a deductible factor to the MLR calculation for MA MSA (medical savings

account) contracts that receive a credibility adjustment. Our currently approved (active) information collection request takes into account the additional burden for MA organizations to calculate and apply the deductible factor to the MLR calculation.

In the January 2022 proposed rule (FR citation) (CMS-4192-P; RIN 0938-AU30), we propose to amend § 422.2460 and 423.2460 to reinstate the detailed MLR reporting requirements that were in effect for CYs 2014 through 2017, and to expand the MLR reporting requirements for MA contracts to require reporting of additional information on expenditures for MA supplemental benefits.

MA organizations and Part D sponsors must provide a remittance to the Secretary if the amount spent in a contract year on certain costs compared to total revenues (excluding Federal and States taxes and licensing and regulatory fees) is below the 85 percent minimum MLR. MLR sanctions do not apply to contracts with non-credible experience, as defined in the regulations. These non-credible contracts are not required to submit their MLR or remittance amount to CMS; however, they must inform CMS that the contract's experience is non-credible, in the manner prescribed by CMS.

More specific information can be found in the CFR references listed above.

## 2. Information Users

The following information collections are included in this request:

*Annual Data Submission (Revised)* MA organizations and Part D sponsors are required to submit MLR data to the Secretary on an annual basis. Part C and Part D MLR data for a contract year will generally be submitted in December of the year following the end of the contract year.

The annual MLR data submissions will be used by CMS to ensure that beneficiaries are receiving value for their premium dollars based on each contract's MLR and any remittances due.

*Recordkeeping (No Changes)* The MLR regulations contain recordkeeping requirements that require plan sponsors to maintain evidence of the amounts reported to CMS, to enable CMS to verify that the data submitted is in compliance with MLR regulations, including all documents, records, and other evidence used to calculate the MLR. Documents, records, and other evidence must be preserved and maintained for 10 years from the date such calculations were reported to CMS with respect to a given MLR reporting year.

The recordkeeping requirements will be used by CMS to determine MA organizations' and Part D sponsors' compliance with the MLR requirements, including requirements concerning how MLR data is to be reported, and how the MLR and any remittances are calculated.

## 3. Use of Information Technology

The submission process for MLR data is entirely automated (electronically) through CMS's Health Plan Management System (HPMS). No paper/hardcopy submissions are required.

HPMS is already used by plan sponsors for other annual Part C and Part D submissions to CMS (e.g., contracting information, bid pricing tools, plan benefit packages, formularies, DIR data submission, attestations, etc.).

#### 4. Duplication of Information

There are no similar information collections that capture the requirements of MLR data submission for MA and Part D contracts.

#### 5. Impact on Small Businesses or Other Small Entities

CMS does not believe that the required submission of MLR data to the Secretary will have a significant impact on a substantial number of small entities.

#### 6. Consequences of Collecting the Information Less Frequently

CMS must collect this information annually in order to determine the amount of any remittances owed to CMS, and to implement sanctions, as required by the sections 1857(e) and 1860D–12(b)(3)(D) of the Act. MA organizations and Part D sponsors are required to report their MLR data, and are subject to financial and other penalties for a failure to meet the statutory requirement that they have an MLR of at least 85 percent. The statute requires several levels of sanctions for failure to meet the 85 percent minimum MLR requirement, including remittance of funds to CMS, a prohibition on enrolling new members, and, ultimately, contract termination.

Annual submission of MLR data is necessary for enforcement of the statutory remittance requirement and other sanctions mandated by the Act.

#### 7. Special Circumstances

There are no special circumstances that would require an information collection to be conducted in a manner that requires respondents to:

- Report information to the agency more often than quarterly;
- Prepare a written response to a collection of information in fewer than 30 days after receipt of it;
- Submit more than an original and two copies of any document;
- Retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;
- Collect data in connection with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study;
- Use a statistical data classification that has not been reviewed and approved by OMB;
- Include a pledge of confidentiality that is not supported by authority established in statute or regulation that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or

- Submit proprietary trade secret or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

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

Serving as the 60-day notice, our proposed rule (CMS-4192-P, RIN 0938-AU30) filed for public inspection on January 6, 2022, and published in the Federal Register on January 12 (87 FR TBD). Comments are due by March 7, 2022.

#### 9. Payment/Gift to Respondents

Respondents will not receive any payments or gifts as a condition of complying with this information collection request.

#### 10. Confidentiality

MLR data submitted by MA organizations and Part D sponsors will be published on the CMS website pursuant to the authority at §§ 422.2490 and 423.2490. No individually identifiable personal health information will be collected and, consequently, cannot be disclosed.

CMS first published Medicare MLR data on the CMS website in January 2017. CMS also publishes MLR data contained in annual MLR reports submitted by commercial plans, as required by section 2718 of the Public Health Service Act.

#### 11. Sensitive Questions

There are no sensitive questions associated with this collection. Specifically, the collection does not solicit questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

#### 12. Collection of Information Requirements and Burden Estimates

##### *Wage Estimates*

To derive average costs, we used data from the U.S. Bureau of Labor Statistics' May 2020 National Occupational Employment and Wage Estimates for all salary estimates ([www.bls.gov/oes/current/oes\\_nat.htm](http://www.bls.gov/oes/current/oes_nat.htm)). In this regard, the following table presents the mean hourly wage, the cost of fringe benefits and overhead, and the adjusted hourly wage.

Estimated Hourly Wages

| Occupation Title                 | Occupation Code | Mean Hourly Wage (\$/hr) | Fringe Benefits and Overhead (\$/hr) | Adjusted Hourly Wage (\$/hr) |
|----------------------------------|-----------------|--------------------------|--------------------------------------|------------------------------|
| Computer and Information Systems | 11-3021         | 77.76                    | 77.76                                | 155.52                       |

We are adjusting our employee hourly wage estimates by a factor of 100 percent. This is necessarily a rough adjustment, both because fringe benefits and overhead costs vary significantly from employer to employer, and because methods of estimating these costs vary widely from study to study. Nonetheless, we believe that doubling the hourly wage to estimate total cost is a reasonably accurate estimation method.

### *Collection of Information Requirements and Associated Burden Estimates*

#### Annual Data Submission (Revised Requirements)

MA organizations and Part D sponsors will be submitting MLR data for each contract on an annual basis. §§ 422.2460 and 423.2460. CMS's analysis is based on an estimate of 601 MLR data submissions each year. The 601 figure is based on the average number of MA and Part D contracts subject to the MLR data submission requirements for contract years 2014 to 2020. The total number of MA and Part D contracts is relatively stable year over year.

CMS used the commercial MLR RIA (May 23, 2013 (78 FR 31303 - 31304)) as a basis for estimating the total hours of administrative work related to the Medicare MLR requirements.

CMS anticipates that the level of effort relating to these activities will vary depending on the scope of an MA organization's or Part D sponsor's operations. The complexity of each MA organization's or Part D sponsor's estimated reporting burden is likely to be affected by a variety of factors, including the number of contracts it offers, enrollment size, the degree to which it currently captures the relevant data, whether it is a subsidiary of a larger carrier, and whether it currently offers coverage in the commercial market (and is therefore subject to the commercial MLR requirements).

Section 422.2440 provides for the application of a deductible factor to the MLR calculation for MA MSA contracts that receive a credibility adjustment. The deductible factor serves as a multiplier on the credibility factor. We previously estimated that 8 MA organizations would offer MSA contracts in 2021 and in each year through 2030, and that it would take an actuary approximately 5 minutes to calculate the deductible factor for the contract. In aggregate, we estimated an annual burden of 0.67 hours (5 min/60 \* 8 MA organizations). The per-contract burden for MA and Part D contracts was estimated to be 0.00114 hours (0.67 hr / 587 contracts) per contract. As discussed in the January 2022 proposed rule, we anticipate that the burden to calculate the MSA deductible factor would be eliminated under our proposal to reinstate the detailed MLR reporting requirements that were in effect for CYs 2014 through 2017, as this factor would be automatically calculated by the MLR Report software that MA organizations and Part D sponsors will use to submit their detailed MLR data to CMS, starting with CY 2023 MLR reporting. We therefore exclude this burden from the table below.

As detailed in Section 15 of this Supporting Statement A, we anticipate that the annual data submission burden would increase to 61.1 hours per contract under our proposal to reinstate the detailed MLR reporting requirements and to require reporting of additional information on expenditures for MA supplemental benefits. We anticipate that the labor associated with the submission of MLR data would be performed by Computer and Information Systems Managers at a cost of \$155.72 per hour.

|  | (a)                 | (b)                                  | (c) = (a) x (b)       | (d)                | (e) = (c) x (d)           | (f) = (e) / (a)                          |
|--|---------------------|--------------------------------------|-----------------------|--------------------|---------------------------|--|
|  | Number of Contracts | Estimated Average Hours per Contract | Estimated Total Hours | Labor Cost (\$/hr) | Estimated Total Cost (\$) | Estimated Average Cost per Contract (\$) |
| Computer and Information Systems Manager | 601                 | 61.1                                 | 36,721.1              | 155.52             | <b>5,715,072.29</b>       | 9,509.27                                 |
| <b>Total</b>                             | <b>601</b>          | <b>61.1</b>                          | 36,721.1              | <b>155.52</b>      | <b>5,715,072.29</b>       | 9,509.27                                 |

Recordkeeping Requirements (Revised)

CMS estimates that each MA organization and Part D sponsor will incur annual administrative costs (per contract) related to complying with the MLR recordkeeping requirements.

Each MA organization and Part D sponsor is obligated to maintain all documents, records, and other evidence that support the MLR data that it submits to the Secretary. Each MA organization and Part D sponsor must maintain the supporting documentation for ten years from the date such data were reported to CMS with respect to a given contract year. §§ 422.2480(c) and 423.2480(c).

MLR record retention costs are assumed to be relatively low, since MA organizations and Part D sponsors already retain similar data for general MA and Prescription Drug Plan program audits and per the established requirements in §§ 422.504(f)(2) and 423.505(f)(2).

To arrive at an estimate of the costs that MA organizations and Part D sponsors will incur in maintaining documentation that supports their MLR submissions, we adjusted downward the 3.5 minute-per-report estimate that appears in the RIA for the commercial MLR rule. CMS estimates that MA organizations and Part D sponsors will incur annual ongoing costs relating to the MLR recordkeeping requirements in the following table. The figures below have been revised to reflect the estimated increase in the number of contracts subject to the annual MLR reporting requirements (from 587 to 601) and the increase in the estimated hourly wages for Computer and Information Systems Managers (from \$150.38 to \$155.52), based on the U.S. Bureau of Labor Statistics' May 2020 National Occupational Employment and Wage Estimates.

|                            | (a)                 | (b)                                  | (c) = (a) x (b)       | (d)                | (e) = (c) x (d)           | (f) = (e) / (a)                          |
|----------------------------|---------------------|--------------------------------------|-----------------------|--------------------|---------------------------|--|
|                            | Number of Contracts | Estimated Average Hours per Contract | Estimated Total Hours | Labor Cost (\$/hr) | Estimated Total Cost (\$) | Estimated Average Cost per Contract (\$) |
| Recordkeeping Requirements | 601                 | 0.045                                | 27.05                 | 155.52             | 4,206.82                  | 7.00                                     |

*Summary of Annual Requirements/Burden Estimates*

|                            | Number of Contracts | Estimated Average Hours per Contract | Estimated Total Hours | Labor Cost (\$/hr) | Estimated Total Cost (\$) | Estimated Average Cost per Contract (\$) |
|----------------------------|---------------------|--------------------------------------|-----------------------|--------------------|---------------------------|--|
| Annual Data Submission     | 601                 | 61.1                                 | 36,721.1              | 155.52             | 5,710,865.47              | 9,502.27                                 |
| Recordkeeping Requirements | 601                 | 0.045                                | 27.05                 | 155.52             | 4,206.82                  | 7.00                                     |
| <b>TOTAL</b>               | <b>601</b>          | <b>61.145</b>                        | <b>36,784.15</b>      | <b>155.52</b>      | <b>5,715,072.29</b>       | <b>9,509.27</b>                          |

*Collection of Information Instruments and Instruction/Guidance Documents*

- Attachment B: MLR Report (Revised)

The process for submitting MLR data is entirely automated (electronically) through CMS’s Health Plan Management System (HPMS). No paper/hardcopy submissions are required.

HPMS is already used by MA organizations and Part D sponsors to submit other information to CMS (contracting information, bid pricing tools, plan benefit packages, formularies, DIR data submissions, attestations, etc.).

- Attachment C: MLR Report Filing Instructions (CY 2023) (Revised)

The MLR Data Form Filing Instructions have been revised as a result of the proposed replacement of the MLR Data Form with the MLR Report workbook. For contract years prior to CY 2018, the MLR Report workbook collected detailed data across three worksheets. The previous iteration of the MLR Data Submission Instructions provided line-by-line instructions for completing all three worksheets of the MLR Report workbook. For contract years starting with CY 2018, the MLR Data Form contains one worksheet, which collects the Adjusted MLR percentage and Remittance Amount. The instructions were revised to provide instructions for completing each of these fields in the MLR Data Form. The instructions continue to provide instructions for how MA organizations and Part D sponsors should determine all of the categories of revenues and expenditures that serve as inputs in the MLR calculation.

We anticipate that the instructions will need to be revised if we finalize our proposal to reinstate and expand upon the detailed MLR reporting requirements, starting with CY 2023, as detailed in the January 2022 proposed rule.

The submission process for the MLR Report Workbook will be automated through HPMS, as with the MLR Data Form.

### 13. Capital Costs

Not applicable. This collection does not impose any capital costs.

### 14. Annualized Cost to Federal Government

The initial burden to the Federal government for the collection of the MA and Part D MLR data was borne through the initial development cycle, as a one-time cost. The MA and Part D MLR data collection is now in maintenance mode with regard to development and enhancements. The maintenance cost and the cost for enhancements are estimated in the table below. We previously estimated that we would pay federal contractors \$200,000 each year for maintenance and enhancements. We have subsequently found it necessary to pay \$300,000 for these services, and we have revised our estimate accordingly.

The CMS employees' hourly wage schedule can be obtained at [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2022/DCB\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2022/DCB_h.pdf) under the Washington-Baltimore-Northern Virginia locality.

|   |                    |
|---|--------------------|
| Annual Maintenance and Enhancements       | \$300,000.00       |
| Annual Defining Requirements              |                    |
| 1 GS-15 (step 10): 1 x \$84.48 x 20 hours | \$1,689.60         |
| 2 GS-14 (step 10): 2 x \$78.63 x 80 hours | \$12,580.80        |
| 2 GS-13 (step 10): 2 x \$66.54 x 40 hours | \$5,323.20         |
| <i>Subtotal</i>                           | <i>\$19,593.60</i> |
| Total Annual Cost to the Government       | \$337,497.60       |

Additional costs to the government to prepare these files for release are already accounted for in current estimates (existing staff assignments and contracts), and therefore the cost impact is zero.

### 15. Program Changes and Burden Adjustments

We anticipate that the annual data submission burden would increase under our current proposal to reinstate the detailed MLR reporting requirements that were in effect for CYs 2014 through 2017 and to require reporting of additional information that MA organizations and Part D sponsors were not required to submit when the detailed MLR reporting requirements were previously in effect.

As a starting point, we assume that reinstating the detailed MLR reporting requirements that were in effect for CYs 2014 through 2017 would cause the MLR reporting burden to increase by the same amount that the burden decreased when we adopted the current, scaled-back reporting requirements in the final rule titled "Medicare Program; Contract Year 2019 Policy and Technical Changes to the Medicare Advantage, Medicare Cost Plan, Medicare Fee-for-Service, the Medicare Prescription Drug Benefit Programs, and the PACE Program" (83 FR 16701) (hereinafter referred to as the April 2018 final rule). In the information collection request that had previously (that is, prior to publication of the April 2018 final rule) been approved by OMB under 0938-1232 (CMS-10476), we estimated that, on average, MA organizations and Part D sponsors would spend 47 hours per contract on administrative work related to Medicare MLR

reporting, including: collecting data, populating the MLR reporting forms, conducting internal review, submitting the reports to the Secretary, and conducting internal audits. The April 2018 final rule estimated that, by eliminating the requirement to submit detailed MLR data, the per-contract burden associated with the above tasks would be reduced from 11.5 hours to 0.5 hours,<sup>1</sup> causing the total per contract burden associated with MLR reporting to decrease from 47 hours to 36 hours.

As explained in the January 2022 proposed rule, we now recognize that not all MA organizations and Part D sponsors were required to correct or provide explanations for suspected errors or omissions in their MLR submissions when the detailed MLR reporting requirements were in effect, which was one of the burdens that CMS factored in to its estimate that the per contract burden of completing the detailed MLR reporting form used for CYs 2014 through 2017 had been 11.5 hours. After adjusting our estimate to reflect the percentage of contracts that actually had to correct or provide explanations for their MLR submissions for CYs 2014 through 2017, we now estimate that the per-contract burden associated with completing the detailed MLR report was 10.75 hours. This is relevant because it means that the additional burden associated with the changes in the January 2022 proposed rule should reflect that the current MLR reporting burden is 36.75 hours<sup>2</sup> (47 hours (total administrative burden) minus 10.75 hours (burden associated with detailed MLR reporting form) plus 0.5 hours (burden associated with current, non-detailed MLR Data Form)), as opposed to 36 hours (47 hours (total administrative burden) minus 11.5 hours (April 2018 final rule's estimate of the burden associated with completing the detailed MLR reporting form) plus 0.5 hours (burden associated with current, non-detailed MLR Data Form)). We note that this refinement to our prior 11.5-hour time estimate does not affect our estimate that MA organizations and Part D sponsors spent 47 hours per contract on administrative work under the MLR reporting requirements in effect for CYs 2014 through 2017 (Row (1) in Table 5). Instead, it causes the estimated time to complete the detailed MLR reporting form to decrease from 11.5 hours to 10.75 hours, with the remaining administrative tasks associated with MLR reporting now estimated as taking the other 36.25 hours (47 hours – 10.75 hours).

We note that, if the proposed changes to the MLR reporting requirements are finalized, CMS expects to resume development of the MLR reporting software, and to update the data collection fields and built-in formulas so that the MLR reporting software calculates the MLR consistent with all amendments to the MLR regulations that CMS has finalized since CY 2017. In making these updates, CMS would revise the programming of the MLR reporting software so that it automatically calculates and applies the appropriate deductible factor for MA MSA contracts, as determined under § 422.2440. Because MA organizations would no longer be responsible for calculating the deductible factor, the burden associated with performing that calculation would be eliminated. For our currently approved (active) information collection, which was based on

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<sup>1</sup> The per-contract burden of completing the current MLR Data Form that CMS requires MA organizations and Part D sponsors to use to submit MLR data since contract year 2018 was estimated to be 0.5 hours.

<sup>2</sup> For narrative simplicity, this figure does not reflect the minimal burden associated with calculating the MSA deductible factor, which was added through subsequent rulemaking, and which, as explained in the narrative, would be eliminated under our current proposal. This figure also excludes the record keeping burden (0.0045 hours per contract), although that burden is accounted for in the summary table at the end of this section of the Supporting Statement. We do not anticipate that the proposed changes to the MLR reporting requirements would impact the estimated record-keeping burden of 0.045 hours per contract.

estimates included in the February 2020 final rule, we anticipated that 8 MA organizations that would offer MA MSA contracts in 2021 and in each year through 2030, and that it would take an actuary approximately 5 minutes (1/12 hour) to calculate the deductible factor for each MSA contract. In aggregate, we estimated an annual burden of 0.67 hours (5 min/60 \* 8 MA organizations). The per-contract burden for MA and Part D contracts was estimated to be 0.00114 hours (0.67 hr / 587 contracts). However, as of January 2022, there are only 4 MSA contracts, and as noted above, we now estimate that 601 contracts are subject to the MLR reporting requirements. In light of these facts, we now estimate an aggregate annual burden of 0.33 hours (5 min/60 \* 4 MA organizations) and a per-contract burden of 0.00055 hours (0.33 hr / 601 contracts). Because this burden would be eliminated under our current proposal, we exclude this burden from the summary table below.

As noted above, in addition to proposing to reinstate the detailed MLR reporting requirements in effect for 2014 through 2017, CMS is proposing to require that MA organizations provide more detailed information on the portion of the incurred claims component of the MLR numerator that represents expenditures for MA supplemental benefits. To collect this information, we intend to add 18 additional fields to the MLR Report template in which MA organizations would enter their total expenditures for different types or categories of supplemental benefits. We also anticipate adding narrative fields in which users would describe the methodologies used to allocate supplemental benefit expenditures.

In total, we estimate that the addition of these fields, as well as the addition of an information-only field in which MA organizations and Part D sponsors would enter the low-income cost sharing subsidy amount that they deducted when calculating the amount of prescription drug costs to include in the MLR report, would increase the number of fields that would require user input and validation by approximately one-third, or 33.3 percent. We believe this increase would cause a proportional increase in the amount of time needed both to complete and submit the MLR Report to CMS, and to perform the data collection activities that make up the remaining portion of the 47 hours per contract that we previously estimated MA organizations and Part D sponsors would spend on administrative work related to the MLR reporting requirements. However, because the new supplemental benefits fields do not affect the MLR reporting burden for sponsors of standalone Part D contracts, we calculate the MLR reporting burden separately for MA contracts and standalone Part D contracts. Thus, we estimate the burden to stand-alone Part D contracts would only increase 5 percent.

To aggregate this increase in burden on a per-contract level, we take a weighted average of the 33 percent increase and the 5 percent increase. The weights correspond to the percentage of contracts that represent MA contracts (about 89 percent) and standalone Part D contracts (about 11 percent). This aggregate net increase per contract is 29.92 percent (89% x 33% + 11% x 5%). The computations are presented in the table below. It is simpler to use one aggregate figure (29.92 percent) for all contracts rather than estimate each contract type separately and then adding them together.

| <b>Contract Type</b>                    | <b>Percent of contracts</b> | <b>Increase for new fields</b> | <b>Product of Increase and Percent (weight) of contract type</b> |
|---|-----------------------------|--------------------------------|--|
| Stand-alone prescription drug contracts | 11%                         | 5%                             | 0.55%  |

|  |     |     |        |
|--|-----|-----|--------|
| MA (including MA-PD and MSA) contracts | 89% | 33% | 29.37% |
| Aggregate burden increase per contract |     |     | 29.92% |

Accordingly, we estimate that the per contract burden associated with completing the detailed MLR reporting form would increase to 61.1 hours, or by 29.92% over the estimated per-contract burden of 47 hours (i.e., the estimated burden of completing the detailed MLR reporting form without taking into account the proposed additional fields).

We estimate that MA organizations and Part D sponsors will incur minimal one-time start-up costs associated with developing processes for capturing the necessary data, as they should already have been allocating their expenses by line of business and contract in order to comply with our current regulations regarding the calculation of the MLR, and they should already have been tracking their supplemental benefit expenditures for purposes of bid development. We estimate that MA organizations and Part D sponsors will incur ongoing annual costs relating to data collection, populating the MLR reporting form, conducting an internal review, submitting the MLR reports to the Secretary, and conducting internal audits.

*Changes to Adjusted Hourly Wages*

We are adjusting our Computer and Information Systems Manager adjusted wage based on more recent BLS wage figures.

| Occupational Title                       | Occupation Code | Currently Approved (\$/hr) [BLS May 2019] | CMS-4920-P (\$/hr) [BLS May 2020] | Difference (\$/hr) |
|--|-----------------|---|-----------------------------------|--------------------|
| Computer and Information Systems Manager | 11-3021         | 150.38                                    | 155.52                            | +5.14              |

*Burden Reconciliation*

| Burden Type            | Total Requested | Change Due to New Statute | Change Due to Program Discretion | Change Due to Program Adjustment | Total Currently Approved |
|------------------------|-----------------|---------------------------|----------------------------------|----------------------------------|--------------------------|
| Total Responses        | 601             | 0                         | 0                                | +14                              | 587                      |
| Total Time (hr)        | 36,721.1        | 0                         | +1                               | 0                                | 21,159                   |
| Time Per Response (hr) | 61.145          | 0                         | +24.3489                         | +0.74996                         | 36.04614                 |

| Burden Type | Total Annual Respondents | Response Frequency (per year) | Total Annual Responses | Time Per Response (hr) | Total Annual Time (hr) | Labor Cost (\$/hr) | Total Annual Cost (\$) |
|-------------|--------------------------|-------------------------------|------------------------|------------------------|------------------------|--------------------|------------------------|
|-------------|--------------------------|-------------------------------|------------------------|------------------------|------------------------|--------------------|------------------------|

|                           |     |           |     |           |            |        |              |
|---------------------------|-----|-----------|-----|-----------|------------|--------|--------------|
| Currently Approved Burden | 587 | Annually  | 587 | 36.04614  | 21,159.09  | varies | 3,181,881    |
| Proposed Burden           | 601 | Annually  | 601 | 61.145    | 36,721.1   | 155.52 | 5,710,865.47 |
| Adjustment                | +14 | No change | +14 | +25.09886 | +15,562.01 | N/A    | +2,528,984   |

16. Plans for Tabulation and Publication and Project Time Schedule

The annual submission of MLR data for a contract year is due to the Secretary generally in December following the end of the contract year.

CMS reserves the right to publish plan sponsors’ annual submissions of MLR data for purposes of to achieving greater market transparency and improving beneficiaries’ ability to make informed health insurance choices. Data in plan sponsors’ annual data submissions will be published pursuant to the authority at §§ 422.2490 and 423.2490.

Sections 422.2490 (for Part C) and 423.2490 (for Part D) provide for the public release of Part C and Part D MLR data for each contract year, which would occur no sooner than 18 months after the end of the contract year for which the MLR data was submitted. For each contract year, each MA organization or Part D sponsor must report to CMS the MLR for each contract that has credible or partially credible experience, and the amount of any remittance owed to CMS. If a contract has non-credible experience with respect to a contract year, the MA organization or Part D sponsor that holds the contract must inform CMS that the contract is non-credible. The November 15, 2016, final rule provides for the release of the Part C and Part D MLR data contained in the MLR Reports, with specified exceptions to release.

17. Display of OMB Expiration Date

CMS has no objections to displaying the expiration date.

18. Certification Statement

There are no exceptions to the certification statement identified in Item 19, “Certification for Paperwork Reduction Act Submissions,” of OMB Form 83-I.

**B. Collections of Information Employing Statistical Methods**

Not applicable. The information collection does not employ statistical methods.