

established by the State to comply with the requirements of § 438.204(g).

In addition, if a State, at its option, wishes to provide additional information to its EQRO, and to have CMS provide 75 percent FFP in the costs of producing this information, then the additional information must be produced through activities identified as optional activities in this final rule and also must be produced in a manner consistent with (as opposed to identical to) the protocols for these six optional activities. These six optional activities are (1) validation of client level data such as claims and encounters, (2) administration or validation of a survey, (3) calculation of performance measures, (4) conduct of performance improvement projects, and (5) conduct of focused studies of quality of care.

The burden associated with this requirement is the time and effort for a State, EQRO, or other State contractor, to conduct and document the findings of the three mandatory activities—the validation of performance improvement projects conducted by the MCO/PIHP, the validation of performance measures calculated by the MCO/PIHP, and a review of MCO/PIHP compliance with structural and operational standards. Each of these activities will need to be conducted on the 329 MCOs and 129 PIHPs that we estimate are currently providing Medicaid services. The types of services provided by these managed care entities and the number of performance improvement projects conducted and performance measures calculated will vary.

We interviewed four EQROs who in 2000 reviewed MCOs/PIHPs in 16 mandatory or voluntary managed care programs in eight States. Based on the information provided by the four EQROs, we confirmed that the hours and costs to conduct these activities vary. The information provided includes: (1) It takes 25 to 138 hours at a cost of \$2,000 to \$10,000 to validate a performance improvement project conducted by an MCO/PIHP; (2) it takes 12 to 202 hours at a cost of \$1,200 to \$7,000 to validate a performance measure calculated by an MCO/PIHP; and it takes 200 to 800 hours at a cost of \$11,000 to \$49,000 to review for MCO/PIHP compliance with structural and operational standards. Based on the submitted information, it takes an average of 65, 53, and 361 hours, respectively, to conduct the above mandatory EQR activities. Therefore, the average total burden associated with this requirement is 479 hours × 458 entities (329 MCOs + 129 PIHPs). Assuming wages of \$63 per hour for

professionals to comply with the requirement, the cost is \$13,821,066.

For the optional EQR activities—validation of client level data (such as claims and encounters), administration or validation of consumer or provider surveys, calculation of performance measures, conduct of performance improvement projects, and conduct of focused studies—we have no data to estimate the hours associated with how long it will take to conduct these activities. We, therefore, estimate that it will take 350 hours to validate client level data and 50 hours to validate consumer or provider surveys. We estimate it will take three times as long to calculate performance measures as it takes on average to validate (159 hours) and three times as long to conduct performance improvement projects and focused studies as it takes on average to validate performance improvement projects (195 hours). We also estimate that it will take three times as long to administer a consumer or provider survey than it takes to validate a survey (150 hours).

Based on 2001 State reported data, we know that of the 42 States that had capitated programs (MCOs or PIHPs) in 2001, 29 (69 percent) had their EQROs validate MCO/PIHP encounter data, 18 (43 percent) had their EQRO administer or validate consumer or provider surveys, 12 (29 percent) had their EQRO calculate performance measures, 16 (38 percent) had their EQRO conduct performance improvement projects, and 32 (76 percent) had their EQRO conduct focused studies. Using the aforementioned percentages and applying them to the number of MCOs and PIHPs, we estimate that States will contract with their EQROs to validate the encounter data of 316 MCOs/PIHPs, administer or validate consumer or provider surveys of 197 MCOs/PIHPs, calculate performance measures of 133 MCOs/PIHPs, conduct performance improvement projects of 174 MCOs/PIHPs, and conduct focused studies of 348 MCOs/PIHPs.

We, therefore, estimate the average total burden associated with conducting each optional EQR activity as follows:

- Validating client level data 350 hours × 316 MCOs/PIHPs = 110,600 hours.
- Validating consumer or provider surveys 50 hours × 98 MCOs/PIHPs (½ of 197 MCO/PIHPs that administered or validated surveys) = 4,900 hours.
- Administering consumer or provider surveys 150 hours × 99 MCOs/PIHPs (½ of 197 MCO/PIHPs that administered or validated surveys) = 14,850 hours.

- Calculating performance measures 159 hours × 133 MCOs/PIHPs = 21,147 hours.

- Conducting performance improvement projects 195 hours × 174 MCOs/PIHPs = 33,930 hours.

- Conducting focused studies 159 hours × 348 = 55,332 hours.

Assuming a wage of \$63 per hour for professionals to comply with the requirement, the cost of conducting the optional EQR activities is (240,759 hours × \$63) \$15,167,817. We solicit comments specifically on this issue because we had no data on which to base the estimated hours for the conduct of each of the optional EQR activities.

The burden estimate associated with this requirement also includes the time and effort for an MCO/PIHP to prepare the information necessary for the EQRO or other State contractor to conduct the three mandatory activities—the validation of performance improvement projects conducted by the MCO/PIHP, the validation of performance measures calculated by the MCO/PIHP, and a review of MCO/PIHP compliance with structural and operational standards. We estimate that it will take each MCO and PIHP 160 hours to prepare this documentation. We believe one-half of the time preparing the information will be done by professional staff at \$63 per hour and the other one-half of the time preparing the information will be done using clerical staff at \$12 per hour. Therefore, to comply with the requirement, the cost of compiling the necessary information is (458 MCOs/PIHPs × (80 hours × \$63 + 80 hours × \$12) \$2,748,000.

§ 438.360 (Nonduplication of mandatory activities)—In order to avoid duplication, the State agency may allow the MCO/PIHP to substitute information from a Medicare or accreditation review for the Medicaid review if specified conditions are met. To demonstrate compliance with these requirements an MCO/PIHP must provide to the State agency reports, findings, and other results of the Medicare or private accreditation review. The burden associated with these requirements is the time and effort for an MCO/PIHP to disclose the reports, findings, and other results of the Medicare or private accreditation review to the State agency. Of the 329 MCOs and 129 PIHPs providing Medicaid services, approximately 122 are Medicaid-only MCOs. We believe that there is the potential for States to allow the remaining 336 MCOs/PIHPs to take advantage of the nonduplication provision and that these MCOs/PIHPs will be required to disclose the necessary information to each State