America's Health Insurance Plans

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May 13, 2009

Office of Information and Regulatory Affairs
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Re: Public Information Collection Requirements – Request for Expedited Appeal of Denial of Premium Assistance
CMS Request (ICR Reference No. 200905-0938-001)
EBSA Request (ICR Reference No. 200903-1210-002)

Submitted Electronically: OIRA_submission@omb.eop.gov
www.regulations.gov

Dear Sir/Madam:

America's Health Insurance Plans (AHIP) is writing to submit comments regarding two Public Information Collection Requirements (ICRs) submitted to the Office of Management and Budget by the Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS) and the Department of Labor, Employee Benefits Security Administration (EBSA). The ICRs concern forms used to file an appeal of a decision to deny premium assistance for federal or state continuation coverage.

AHIP is the national association representing nearly 1,300 health insurance plans providing coverage to more than 200 million Americans. Our members offer a broad range of products in the commercial marketplace including health, long-term care, dental, vision, disability, and supplemental coverage. Our members also have a strong track record of participation in Medicare, Medicaid, and other public programs.

Background

The American Recovery and Reinvestment Act of 2009 (ARRA) provides for premium subsidies to help pay for the continuation of health coverage for certain individuals who lose their jobs. Premium subsidies are available for federal continuation coverage (COBRA and coverage for federal, state, and local government employees) and state continuation coverage.

In general, the premium subsidy is available to individuals who were involuntarily terminated from employment between September 1, 2008 and December 31, 2009. Individuals whose request for the premium subsidy for COBRA coverage is denied may appeal the denial to the EBSA. Individuals whose request for the premium subsidy for state continuation coverage or for coverage available to individuals covered by a state or local government employee plans may appeal the denial to CMS.

Importance of Consistent Appeals Processes and Forms

It is important that CMS and EBSA follow consistent appeals processes and use forms that are similar in content and format because CMS and CBSA are considering the same criteria when evaluating an appeal request:

- Was the individual involuntarily terminated from employment between September 1, 2008 and December 31, 2009?
- Are the individual and any covered family members currently enrolled in state or federal continuation coverage?
- Are the individual and any covered family members eligible for other specified health coverage?

Recommendations for Changes to the CMS and EBSA Processes and Forms

We believe the following changes will provide consistency to the CMS and EBSA appeal processes and forms:

Changes to Both Forms

- The premium subsidy is available for up to nine months. We recommend adding to the introduction paragraph of the CMS and EBSA forms a statement that the premium subsidy may be available for up to nine months.

- The CMS and EBSA forms include a mailing address and facsimile number as options for where the appeal may be filed. We recommend that both forms also include an e-mail address or website as an option for individuals to electronically file an appeal (with an appropriate process for individuals to electronically "sign" the appeal).

Changes to the CMS Form

- The EBSA form signature block includes an attestation that the signing party is completing the form "under penalty of perjury" and we recommend that the same attestation be added to the CMS form.

Changes to the EBSA Form

- The CMS form uses the term "premium assistance" and the EBSA form uses the term "premium reduction" to describe the subsidy. We recommend that both forms use the term "premium assistance" because the term is more understandable to the average reader.

- The CMS form includes a statement in the first paragraph, in bold type, that the agency will be unable to review the appeal if complete information is not submitted. The EBSA form includes this statement in plain type in the middle of the fifth paragraph. We recommend that the EBSA form be modified to move this statement up to the first paragraph and place it in bold type to clearly notify the individual of the need to provide complete information in filing an appeal.

- The EBSA form indicates that separate forms must be completed by each family member whose plan information is not identical (e.g., the individuals are covered by different continuation coverage options offered by the employer). We recommend that the form be modified to permit the individual to list the policy information of his or her spouse and each dependent child so that multiple forms are not necessary.

- The CMS form includes a question (Number 11) asking if the individual earned more than $125,000 for the year (or $250,000 for married couples filing a joint return). The premium subsidy is not available for individuals who earn over a certain amount. We recommend that the same question be added to the EBSA form to highlight that higher income individuals are not entitled to a subsidy and should not file an appeal.

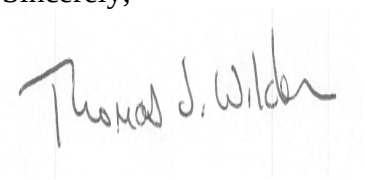
- The second page of the EBSA form includes a "checklist" for individuals to determine if they might be eligible for a premium subsidy. We believe that all of the conditions listed must be met in order to qualify for a premium subsidy and therefore the "or" after the third bulleted condition should be replaced with an "and."

AHIP and its member health insurance plans are strongly committed to making this program work and to helping qualified individuals take advantage of the premium subsidy for

continuation coverage. We believe the changes we have recommended to the CMS and EBSA processes and forms will assist individuals in obtaining a timely consideration of their appeals.

Please let me if you have any questions.

Sincerely,



Thomas J. Wilder
Senior Regulatory Counsel

Cc: James Mayhew, Centers for Medicare and Medicaid Services
Daniel J. Maguire, Employee Benefits Security Administration