SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT 1995 SUBMISSIONS

Request for Review If You Have Been Denied of Premium Assistance

A. Background

The American Recovery and Reinvestment Act of 2009 (ARRA) (P.L. 111-5) provides for premium assistance and expanded eligibility for health benefits under the Consolidated Omnibus Budget Reconciliation Act of 1986, commonly called COBRA, and other comparable state continuation coverage programs. This premium assistance is not paid directly to the covered employee or the qualified beneficiary, but instead is in the form of a tax credit for the health plan, the employer, or the insurer. An individual must be an "assistance eligible individual" to be eligible for the premium assistance. If eligible, these individuals pay only 35 percent of their COBRA premiums to the plan and the remaining 65 percent is paid through the tax credit. Eligible individuals can start getting the premium assistance as of the first day of coverage beginning on or after February 17, 2009.

An "assistance eligible individual" is a "qualified beneficiary[1]" who:

- Is eligible for COBRA continuation coverage at any time during the period beginning September 1, 2008 and ending December 31, 2009;
- Elects COBRA coverage; and
- Has a qualifying event for COBRA coverage that is the employee's involuntary termination during the period beginning September 1, 2008 and ending December 31, 2009.

If an individual requests treatment as an assistance eligible individual and the group health plan, employer or insurer denies him or her premium assistance, the Secretary of Health and Human Services must provide for expedited review of the denial upon application to the Secretary in the form and manner the Secretary provides. The Secretary is required to make a determination within 15 business days after receipt of an individual's application for review.

The *Request for Review If You Have Been Denied Premium Assistance* (the "Application") is the form that will be used by individuals to file their expedited review appeals. Each individual must complete all information requested on the Application for the Centers for Medicare & Medicaid Services (CMS) to begin reviewing his or her case. An individual's application cannot be reviewed if sufficient information is not provided, or cannot be obtained upon request.

B. Justification

1. Need and Legal Basis

1 In general a "qualified beneficiary" is an individual who was covered by a group health plan on the day before a qualifying event occurred that caused him or her to lose coverage. A qualified beneficiary must be a covered employee, the employee's spouse or former spouse, or the employee's dependent child.

The information provided on the Application will be used by CMS to make a determination regarding the applicant's eligibility for premium assistance. Obtaining the specific information requested in the Application as soon as possible will enable CMS to use the short amount of time available to it more effectively by focusing on disputed or difficult facts or legal issues rather than researching basic facts or contact information that might be more easily within reach of each Applicant. CMS will make its determination within the 15-business day time frame required under section 3001(a)(5) of ARRA. CMS's determination upon review of the denial will be de novo and serve as the final determination of the Secretary. A reviewing court is required to grant deference to the Secretary's determination.

2. Information Users

The Application must be submitted either by mail or by fax by individuals who have been denied continuation coverage premium assistance.

3. Use of Information Technology

Information will not be collected electronically. CMS does not have the system capability to accept electronic submissions and it is not cost effective to build a system in the time frame required to comply with the statutory obligation. The hard copy forms submitted by fax and mail are required to be signed.

4. Duplication of Effort

There is no duplication of information under the Application. CMS will consult with the Secretary of the Treasury in providing for the expedited review of denied claims for premium assistance. The Secretary of Labor (Labor) is responsible for the determinations in connection with COBRA continuation coverage under part 6 of title I of ERISA, and Labor is expected to use a similar application form. The Application provides guidance on expedited review claims that must be filed with Labor and contact information for the department.

5. Small Businesses

The information collection does not impose any burden on small businesses or entities.

6. Less Frequent Collection

This is a one-time collection. If the information collection is not conducted, CMS will not have sufficient information to adjudicate expedited review claims within the timeframe required under the legislation.

7. Special Circumstances

This clearance request follows an earlier emergency clearance request, which was necessitated by the fact that the ARRA specifies that the COBRA premium assistance provisions, and thus the accompanying expedited review procedures, were effective upon enactment, that is as of the first day of coverage beginning on or after February 17, 2009. See 74 Federal Register 20483, May 4, 2009. OMB approved CMS-10285 on May 20, 2009. The OMB control number is 0938-1062, and the expiration date is 11/30/2009.

8. Federal Register/Outside Consultation

A 60-day Federal Register notice was published on June 26, 2009.

On May 4, 2009, we solicited comments on the emergency information collection in 74 Federal Register 20483. (Attached please find a copy of that notice.) In response to comments from one industry advocacy organization recommending specific changes to the application, we now specify that applicants are signing under the penalty of perjury. We received no comments on cost and hour burden. Furthermore, in drafting the Application, the Department consulted with the Department of the Treasury, Internal Revenue Service, and Department of Labor to receive their input on the format of and data elements and to ensure that burden of the information collection on respondents is minimized.

9. Payments/Gifts to Respondents

None.

10. Confidentiality

The application contains a Privacy Act Notice that complies with the Privacy Act of 1974.

11. Sensitive Questions

None.

12. Burden Estimates (Hours and Wages)

It is difficult to estimate the likely volume of expedited review requests that will be generated by the new statutory provisions concerning COBRA premium assistance and the associated appeal rights. Currently, CMS receives between 80 to100 COBRA inquiries a month on its consumer helpline, many of which involve disputed denials of continuation coverage. However, the hotline is intended to address only public sector COBRA issues, while the premium assistance and appeals provisions have a much wider scope, including State continuation coverage. Moreover, not only are the ARRA premium assistance provisions intended to make the cost of continuation coverage affordable to a greater segment of the population, this is also the first opportunity for an independent Federal review of such disputes. Thus, CMS expects the demand for continuation coverage (and appeals of denials) to far surpass the current inquiry workload.

Our initial estimate of the annual expedited review workload is that we will receive approximately 1,000 appeals per month.

We further estimate that the application (along with any necessary attachments) will take on average 1 hour to complete. We do not anticipate that individuals will need any assistance to fill out the appeal application. Thus, the total estimated labor hour burden for this information collection is approximately 12,000 hours annually.

The Application is 6 pages long, and the CMS anticipates that each application will include, on average, 4 pages of additional, attached documentation. We estimate that the costs of postage and other materials for each of the 12,000 paper applications will be $0.62, resulting in a cost of approximately $7,440.

COBRA Expedited Review Application PRA Calculations

Notice Types	Notices	Labor Hours	Labor Costs	Mailing Costs	Total Costs
COBRA Appeals Application	12,000	12,000	$0	$7,440	$7,440

13. Capital Costs

There are no capital costs associated with this collection.

14. Cost to the Federal Government

As discussed above, the legislation requires the Secretary of HHS (through CMS) to develop and implement an expedited review process for adjudicating COBRA-related appeals. Thus, the only costs to the Federal government are for obtaining an appeals contractor to process and evaluate these appeal request, and respond to related inquiries. The amount of these costs will be directly related to the appeals volume, with an approximate cost of $2.3 million per year.

15. Changes to Burden

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Although there are no changes to the burden of the current submission, there are changes to the form. The vast majority of these changes fall within the clarification category. Except as noted, changes marked as clarification were made to keep the form as simple as possible by removing or using less technical language.

16. Publication/Tabulation Dates

There are no plans to publish the results of this collection of information.

17. Expiration Date

We are requesting the basic expiration date of three years from approval date. ARRA does not provide a date by which individuals must file the Application, and it is also conceivable that the benefit could be extended.

18. Certification Statement

No exceptions.

C. Collection of Information Employing Statistical Methods

None.