

SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT 1995 SUBMISSIONS

A. Justification

1. *Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.*

The Patient Protection and Affordable Care Act (the Affordable Care Act) was enacted by President Obama on March 23, 2010. Section 2714 of the PHS Act, as added by the Affordable Care Act, and the Department’s interim final regulation (29 CFR 2590.715-2714) require group health plans and health insurance insurers offering group or individual health insurance coverage that makes dependent coverage available for children to continue to make coverage available to such children until the attainment of age 26. Coverage does not have to be extended to children of a child receiving dependent coverage. For plans years beginning on or after September 23, 2010 and before January 1, 2014, a grandfathered group health plan is not required to offer coverage to a dependent child under 26 who is otherwise eligible for employer-sponsored insurance. For plans with initial years on or after January 1, 2014, the plan must offer coverage regardless of whether the dependent child is otherwise eligible for coverage through employer sponsored insurance.

Before the applicability date of PHS Act section 2714, an individual who was covered under a group health plan (or group health insurance coverage) as a dependent may have lost eligibility for coverage under the plan due to age before attaining age 26. Moreover, if a child was under age 26 when a parent first became eligible for coverage, but older than the age at which the plan stopped covering children, the child would not have become eligible for coverage. When the provisions of PHS Act section 2714 become applicable to the plan (or coverage), the plan or coverage can no longer exclude coverage for the individual until age 26.

Accordingly, the interim final regulation (29 CFR 2590.715-2714(f)) requires plans to provide a notice of an enrollment opportunity to individuals whose coverage ended, or who was denied coverage (or was not eligible for coverage) under a group health plan or group health insurance coverage because, under the terms of the plan or coverage, the availability of dependent coverage of children ended before the attainment of age 26. The Affordable Care Act dependent coverage enrollment opportunity notice is an information collection request (ICR) subject to the PRA.

The enrollment opportunity must continue for at least 30 days, regardless of whether the plan or coverage offers an open enrollment period and regardless of when any open enrollment period might otherwise occur. This enrollment opportunity must be presented not later than the first day of the first plan year (or, in the individual market,

policy year) beginning on or after September 23, 2010 (which is the applicability date of PHS Act sections 2714). Coverage must begin not later than the first day of the first plan year (or policy year in the individual market) beginning on or after September 23, 2010.

2. *Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.*

The enrollment opportunity notice will be used by health plans to notify certain individuals of their right to enroll dependents who have not attained age 26 under their plan. The affected individuals are those whose coverage ended, or who were denied coverage (or were not eligible for coverage) under a group health plan or group health insurance coverage because, under the terms of the plan or coverage, the availability of dependent coverage of children ended before the attainment of age 26.

3. *Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration for using information technology to reduce burden.*

The regulation does not restrict plans or issuers from using electronic technology to provide either disclosure. The Department of Labor’s regulations under 29 C.F.R. § 2520.104b-1(b) provide that, “where certain material, including reports, statements, and documents, is required under Part I of the Act and this part to be furnished either by direct operation of law or an individual request, the plan administrator shall use measures reasonably calculated to ensure actual receipt of the material by plan participants and beneficiaries.” Section 29 CFR 2520.104b-1(c) establishes the manner in which disclosures under Title I of ERISA made through electronic media will be deemed to satisfy the requirement of § 2520.104b-1(b). Section 2520-107-1 establishes standards concerning the use of electronic media for maintenance and retention of records. Under these rules, all pension and welfare plans covered under Title I of ERISA may use electronic media to satisfy disclosure and recordkeeping obligations, subject to specific safeguards.

The Government Paperwork Elimination Act (GPEA) requires agencies to allow customers the option to submit information or transact with the government electronically, when practicable. Where feasible, and subject to resource availability and resolution of legal issues, EBSA has implemented the electronic acceptance of information submitted by customers to the federal government.

4. *Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.*

The Affordable Care Act amended the Employee Retirement Income Security Act, the Internal Revenue Code, and the PHS Act. Accordingly, both the Department of Health and Human Services (HHS) and the Department of the Treasury (Treasury) will require plans and issuers to provide an Enrollment Opportunity Notice Relating to Extension of Dependent Coverage. There will be no duplication of effort with HHS and Treasury, however, because only the Department of Labor oversees ERISA-covered group health plans.

5. *If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.*

The information collection does not impact small businesses or entities.

6. *Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.*

If this information were conducted less frequently, affected individuals would not be informed of their right to enroll dependents who have not attained age 26 under their plans.

7. *Explain any special circumstances that would cause an information collection to be conducted in a manner:*

- *requiring respondents to report information to the agency more often than quarterly;*
- *requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;*
- *requiring respondents to submit more than an original and two copies of any document;*
- *requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;*
- *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;*
- *requiring the use of a statistical data classification that has not been reviewed and approved by OMB;*
- *that includes 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*
- *requiring respondents to 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.*

None.

8. *If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.*

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years -- even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

The interim final regulation provides the public with a 60-day period to submit written comments on the rule.

9. *Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.*

None.

10. *Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.*

Not applicable

11. *Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.*

Not applicable.

12. *Provide estimates of the hour burden of the collection of information. The statement should indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.*

- *If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.*
- *Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.*

- *The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.*

The Department estimates that preparing the enrollment opportunity Notice for Extension of Dependent Coverage will require 30 minutes of legal professional time at a labor rate of \$119 per hour and one minute of clerical time at \$26 per hour per paper notice to distribute the notices. While plans could prepare their own notice, the Departments assume that the notices will be prepared by service providers. The Department has previously estimated that there are 630 health insurers (460 providing coverage in the group market, and 490 providing coverage in the individual market). Because the hour and cost burden is shared between the Departments of Labor/Treasury and the Department of Health and Human Services, the burden to prepare the notices is calculated using half the number of insurers (315). This results in an hour burden for drafting the notice of 160 hours (315×0.5) with an equivalent cost of \$19,000 ($315 \times 0.5 \times \119.03). The Departments assume that 38 percent of the notices will be sent electronically and will not incur clerical staff burden hours to distribute. This leads to a clerical staff hour burden of 822,000 hours ($79,573,000 \times 0.62 \times 1/60$) with an equivalent cost of \$21,494,000 ($79,573,000 \times 0.62 \times 1/60 \times \26.14) to distribute the notices. The total hour burden of this information collection is nearly 822,000 hours with an equivalent cost of nearly \$21,513,000.

13. *Provide an estimate of the total annual cost burden to respondents or record-keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12.)*

The Department estimates that the cost burden associated with distributing the approximately 79,573,000 notices will be approximately \$2,467,000 ($79,573,000 \times 0.62 \times \0.05) based on an estimated one page per notice and \$.05 per page for material and printing costs. The Departments assume that 38 percent of the notices will be sent electronically. In addition, the Departments assume that plans will send these notices with other plan documents, such as open enrollment materials. Therefore, the Department has not included postage costs in this estimate.

14. *Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.*

Not applicable.

15. *Explain the reasons for any program changes or adjustments reporting in Items 13 or 14 of the OMB Form 83-I.*

This is a new information collection.

16. *For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.*

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

17. *If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.*

The OMB expiration date will be published in the Federal Register following OMB approval.

18. *Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submission," of OMB 83-I.*

None.

B. Collections of Information Employing Statistical Methods

Not applicable.