

Supporting Statement – Part A

Supporting Statement For

Notification of Involuntary Disenrollment by the Centers for Medicare & Medicaid Services for Failure to Pay the Part D Income Related Monthly Adjustment Amount

—CMS-10352

A. Background

Effective January 1, 2011, §3308 of the Affordable Care Act amended §1860D-13(a) of the Act by establishing an income related monthly adjustment amount (hereafter referred to as Part D-IRMAA) that is added to the monthly Part D premium for individuals whose modified adjusted gross income (MAGI) exceeds specified threshold amounts. In 2010, these amounts were \$85,000 for a beneficiary filing an individual income tax return or married and filing a separate return, and \$170,000 for a beneficiary filing a joint tax return. Under §1839(i)(5), the dollar amount for the income tiers below will be adjusted annually based on the Consumer Price Index. These amounts are applicable for both the Medicare Part B and Part D IRMAA programs. However, in accordance with §3204 of the Affordable Care Act, these income threshold amounts will remain at the 2010 levels for calendar years 2011-2019. The income threshold tiers are:

Beneficiaries who file individual tax returns with income:

- Less than or equal to \$85,000
- Greater than \$85,000 and less than or equal to \$107,000
- Greater than \$107,000 and less than or equal to \$160,000
- Greater than \$160,000 and less than or equal to \$214,000
- Greater than \$214,000

Beneficiaries who file joint tax returns with income:

- Less than or equal to \$170,000
- Greater than \$170,000 and less than or equal to \$214,000
- Greater than \$214,000 and less than or equal to \$320,000
- Greater than \$320,000 and less than or equal to \$428,000
- Greater than \$428,000

Beneficiaries who are married but file separate tax returns from their spouses:

- Less than or equal to \$85,000
- Greater than \$85,000 and less than or equal to \$129,000
- Greater than \$129,000

Section 3308 of the Affordable Care Act also stipulates that the Part D-IRMAA must be withheld from benefit payments in accordance with section 1840 of the Act. Therefore, in cases where an individual is receiving benefit payments from SSA, the Railroad Retirement Board (RRB), or the Office of Personnel Management (OPM), the Part D-IRMAA must be withheld from such benefit

payments. However, if the benefit payment is insufficient to allow the Part D-IRMAA withholding, or an individual is not receiving benefit payments as described in section 1840 of the Act, section 3308 of the Affordable Care Act requires SSA to enter into agreements with the Centers for Medicare & Medicaid Services (CMS) RRB, and OPM, as necessary, in order to allow the Part D-IRMAA to be collected directly from these beneficiaries.

In cases where the beneficiary is directly billed the Part D-IRMAA and fails to pay the amount following proper billing and a grace period, the Centers for Medicare & Medicaid Services (CMS) will disenroll the beneficiary from his/her Part D plan. Following disenrollment, the beneficiary's Part D plan sponsor will send him/her the "*Notification of Involuntary Disenrollment by the Centers for Medicare & Medicaid Services for Failure to Pay the Part D Income Related Monthly Adjustment Amount.*" This notice will inform the beneficiary that his/her Medicare prescription drug coverage has been terminated, as well as provide information concerning how his/her coverage can be reinstated (without interruption) and who to contact for assistance.

B. Justification

1 . Need and Legal Basis

Section 1860D-13(c) of the Act provides that a beneficiary's Part D coverage can be terminated if he/she fails to pay his/her Part D premiums to the Part D plan sponsor after a grace period and adequate notice has been provided. Since the Part D-IRMAA is part of the monthly premium for a beneficiary who is assessed the amount, CMS promulgated similar rules under 42 CFR §423.44(e). This regulatory provision specifies that CMS will terminate Medicare prescription drug coverage for any beneficiary who fails to pay his/her Part D-IRMAA after he/she has been billed the amount and provided a minimum grace period of 3 months following the billing month. Subsequent to the involuntary disenrollment by CMS, 42 CFR §423.44(e)(4) requires the Part D plan sponsor to provide the beneficiary with notice of the involuntary disenrollment in a form and manner determined by CMS. This notice is the *Notification of Involuntary Disenrollment by the Centers for Medicare & Medicaid Services for Failure to Pay the Part D Income Related Monthly Adjustment Amount*; and CMS has determined that the Part D plan sponsor must send the form within 10 calendar days from the date of notification by CMS. Additionally, pursuant to 42 CFR §423.44(e), the disenrolled beneficiary's coverage may be reinstated without interruption, if the beneficiary, within three calendar months after the termination date, fulfills the following criteria (1) demonstrates "good cause" (as defined under 42 CFR §423.44(d)(1)(iv)) for failure to pay the Part D-IRMAA during the initial grace period; (2) pays all Part D-IRMAA arrearages; and (3) if applicable, pays any premium arrearages due to the plan. The *Notification of Involuntary Disenrollment by the Centers for Medicare & Medicaid Services for Failure to Pay the Part D Income Related Monthly Adjustment Amount* will convey this criteria, as well as provide contact information concerning: (1) who the beneficiary should contact concerning payment of the Part D-IRMAA; and (2) who to contact concerning the information in the letter.

In general, when a beneficiary is disenrolled (voluntarily or involuntarily) by his/her Part D plan sponsor or CMS, it is the Part D plan sponsor that provides the member with a disenrollment

notice. Disenrollment notifications are a routine part of a Part D plan sponsor's disenrollment process to the member. As such, we believe the Part D plan sponsor is in the best position to provide such notification. If the beneficiary does not receive this notice, he/she will not be notified, understand the reasons for disenrollment, know how to seek reinstatement and potentially be liable for a late enrollment penalty should they have a lapse in Part D coverage and enroll at a later date. Specifically, this notice provides the necessary information in a timely manner to allow the beneficiary to meet the established criteria for reinstatement. If the beneficiary is not eligible for reinstatement, and still wants to enroll in a Medicare prescription drug program, the beneficiary can only do so during a valid enrollment period. Consequently, waiting for a valid enrollment period may create a span of time in which an individual is without coverage and, depending on the duration, the enrollee may incur a Part D late enrollment penalty.

2. Information Users

Part D plan sponsors will mail the *Notification of Involuntary Disenrollment by the Centers for Medicare & Medicaid Services for Failure to Pay the Part D Income Related Monthly Adjustment Amount* to beneficiaries who failed to pay the Part D-IRMAA within a specified grace period and CMS terminated their Medicare prescription drug coverage. This notice will inform beneficiaries that they have been disenrolled from their Part D plan, the effective date of the disenrollment, who made the decision to terminate the coverage, reinstatement requirements, and who to contact for more information.

3. Use of Information Technology

In general, disenrollment notices are generated by the Part D sponsor's systems. Therefore, the *Notification of Involuntary Disenrollment by the Centers for Medicare & Medicaid Services for Failure to Pay the Part D Income Related Monthly Adjustment Amount* will be automated as well.

*To comply with the Government Paperwork Elimination Act (GPEA), you must also include the following information in this section:

- Is this collection currently available for completion electronically? **Part D plan sponsors will receive this notice electronically so that they can input it into their systems**- Does this collection require a signature from the respondent(s)? **No**.
 - If CMS had the capability of accepting electronic signature(s), could this collection be made available electronically? **N/A**
 - If this collection isn't currently electronic but will be made electronic in the future, please give a date (month & year) as to when this will be available electronically and explain why it can't be done sooner. **N/A**
 - If this collection cannot be made electronic or if it isn't cost beneficial to make it electronic, please explain. **N/A**.

4. Duplication of Efforts

Current disenrollment notices provided by Part D plan sponsors to beneficiaries that have been disenrolled do not convey disenrollment for failure to pay the Part D-IRMAA. This information collection does not duplicate any other effort and the information cannot be obtained from any other source.

5. Small Businesses

N/A

6. Less Frequent Collection

Failure to provide the information requested may result in the beneficiary's enrollment not being reinstated. If the beneficiary misses the timeframe to request reinstatement and still wants to enroll in a Medicare prescription drug program, the beneficiary can only do so during a valid enrollment period. Consequently, waiting for a valid enrollment period may create a period in which an individual is without coverage and, depending on the duration, the enrollee may incur a Part D late enrollment penalty.

7. Special Circumstances

Explain any special circumstances that would cause an information collection to be conducted in a manner: Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;

In accordance with 42 CFR 423.505(e)(1)(iii), the Part D plan sponsor must retain the enrollment and disenrollment records for the current contract period and 10 prior periods.

8. Federal Register/Outside Consultation

This PRA package and the publication of the CMS-4144-P Rule constitutes our efforts to solicit public comment concerning the frequency of collection, clarity of instructions, etc. No other outside consultation is being sought.

9. Payments/Gifts to Respondents

N/A

10. Confidentiality

N/A

11. Sensitive Questions

N/A

12. Burden Estimates (Hours & Wages)

We estimate that approximately 80,000 (7.6 percent) of the 1.05 million beneficiaries subject to the Part D-IRMAA will be directly billed the Part D-IRMAA either because they are not receiving monthly benefit payments from SSA, OPM, or the RRB, or the monthly benefit payment is not sufficient to cover the Part D-IRMAA. Of the 80,000 Part D enrollees who will be directly billed for the Part D-IRMAA, we cannot estimate how many might accrue Part D-IRMAA arrearages and be subsequently terminated.
However, in cases where the PDP is required to send an enrollee the Notification of Involuntary Disenrollment by the Centers for Medicare & Medicaid Services for Failure to Pay the Part D Income Related Monthly Adjustment Amount, and all 80,000 Part D enrollees that have a Part D-IRMAA become delinquent, the maximum burden associated with this requirement would be the time and effort it takes the PDP to populate the notice. Termination notices are generally automated; therefore, we estimate 1 minute x 80,000 enrollees divided by 60 minutes. This equates to an annual burden for PDP sponsors of 1,333 hours at approximately \$40/hour (based on U.S. Department of Labor statistics for hourly wages for administrative support). The associated burden amount is \$53,320. Additionally, Part D plan sponsors will have to retain a copy of the notice in the beneficiary's records. We estimate 5 minutes x 80,000 enrollees divided 60 minutes. This equates to 6,666 hours at approximately \$40/hour (based on U.S. Department of Labor statistics for hourly wages for administrative support). This associated burden amount is \$266,000. We estimate the total maximum annual burden for all Part D plan sponsors resulting from this proposed provision to be \$319,986.

13. Capital Costs

Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

Part D plan sponsors currently disseminate disenrollment notices to beneficiaries, as well as maintain the enrollment and disenrollment information in their records. Since Part D plan sponsors currently perform these functions as part of their routine enrollment and disenrollment procedures, this notice will not generate additional capital costs other than those estimated in Item 12 above.

14. Cost to Federal Government

This provision does not incur costs by the Federal Government.

15. Changes to Burden

This is a new burden collection.

16. Publication/Tabulation Dates

N/A

17. Expiration Date

CMS would like to display the expiration date.

18. Certification Statement

N/A