

Supporting Statement for Emergency PRA - Quarterly Reporting for Mini-med Plans and Expatriate Plans

A. Justification

1. Circumstances Making the Collection of Information Necessary

Section 2718 of the Public Health Services Act (PHS Act) requires a health insurance issuer (issuer) offering group or individual health insurance coverage to submit a report to the Secretary concerning the amount the issuer spends each year on claims, quality improvement expenses, non-claims costs, Federal and State taxes and licensing or regulatory fees, and the amount of earned premium. An issuer must provide an annual rebate to enrollees if the amount it spends on certain costs compared to its premium revenue (excluding Federal and States taxes and licensing or regulatory fees) does not meet a certain ratio, referred to as the medical loss ratio (MLR). An interim final rule (IFR) implementing the MLR was published on December 1, 2010 (75 FR 74865), which added Part 158 to Title 45 of the Code of Federal Regulations. The IFR is effective January 1, 2011.

Section 158.110(b)(1) of the IFR requires an issuer to submit a report for each MLR reporting year “on a form and in the manner prescribed by the Secretary” for each large group market, small group market, and individual market within each state in which the issuer conducts business. In order to respond to concerns that policies that have a total annual limit of \$250,000 or less (sometimes referred to as “mini-med plans”) and policies that primarily cover employees working outside the United States (referred to as “expatriate plans”) have high administrative costs, §158.221(b)(3) and (4) of the IFR allows issuers of such policies to use a multiplier for the costs that comprise the numerator of the MLR. Section 158.120(d)(3) and (4) of the IFR also requires that the experience from such policies be separately reported from other policies and that reports regarding such experience be submitted on a quarterly basis. Specifically, an issuer with mini-med policies or expatriate policies will have to submit a quarterly report to the Secretary by:

- May 1, 2011, for the quarter ending March 31, 2011;
- August 1, 2011, for the quarter ending June 30, 2011; and
- November 1, 2011, for the quarter ending September 30, 2011.

The form and content for the quarterly reports required by 45 CFR Part 158 must be specified so that issuers can comply with their statutory and regulatory obligations to **This information has not been publicly disclosed and may be privileged and confidential. It is for internal government use only and must not be disseminated, distributed or copied to persons not authorized to receive the information.**

provide such reports to the Secretary. The quarterly reports and the data specified in them are needed by HHS in order to evaluate whether and what type of special circumstance adjustment is warranted for mini-med and expatriate plans for MLR reporting year 2012 and beyond. The quarterly reports will be submitted electronically by issuers, to an internet address to be prescribed by the Secretary in separate guidance.

HHS notes that although 45 CFR §158.110 also requires an annual MLR report, the annual report will be the subject of a separate Federal Register filing. The first annual report required under section 2718 of the PHS Act and 45 CFR §158.110 is not due until June 1, 2012. To that extent, we will submit a separate package containing the annual reporting forms to OMB for approval.

The Department of Health and Human Services (HHS) is requesting emergency action for this clearance by the Office of Management and Budget (OMB) no later than January 21, 2011. We are requesting emergency review and approval only of the quarterly reporting forms to enable the required collection of data from mini-med plans and expatriate plans. OCIO will simultaneously submit for approval a separate package to obtain the three-year approval for the collection of quarterly data from all issuers that are subject to the MLR provisions under section 2718 of the PHS Act and the IFR.

2. Purpose and Use of Information Collection

The data collection of quarterly reports by issuers providing coverage through expatriate plans and mini-med plans will allow HHS to better ascertain whether a special circumstance adjustment is warranted for expatriate plans and mini-med plans for the 2012 MLR reporting year and beyond.

3. Use of Improved Information Technology and Burden Reduction

The quarterly reports will be submitted electronically to the Secretary by issuers for each respective State and market in which it conducts business.

4. Efforts to Identify Duplication and Use of Similar Information

The proposed quarterly collection of data has never been collected before by the Federal government.

5. Impact on Small Businesses or Other Small Entities

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As stated in the Regulatory Impact Analysis of OCIIO-9998-IFC (75 FR 74864 (December 1, 2010)), HHS does not believe that the required submission of quarterly reports to the Secretary will have a significant impact on a substantial number of small entities. The Department estimates that of the 75 issuers who must report quarterly to the Secretary in compliance with OCIIO-9998-IFC, there are only approximately five (or 4.75) small entities, or roughly six percent, who must comply with the reporting mandate.

6. Consequences of Collecting the Information Less Frequently

OCIIO-9998-IFC requires an issuer to submit quarterly data to the Secretary that will allow the Secretary to assess whether the special circumstance adjustment should be modified prior to the start of the 2012 MLR reporting year. The annual data for mini-med and expatriate plans will not be available to support this determination until the middle of the 2012 MLR reporting year. Therefore, HHS would be in violation of 45 CFR §158.110(b)(2) (75 FR 74864, 74922) if HHS were to collect the referenced data less frequently than on a quarterly basis.

7. Special Circumstances Relating to the Guidelines of 5 CFR 1320.5

No special circumstance.

8. Comments in Response to the Federal Register Notice/Outside Consultation

The 10-day Federal Register notice published on XX/XX/XX.

9. Explanation of any Payment/Gift to Respondents

Respondents will not receive any payments or gifts as a condition of complying with this information collection request.

10. Assurance of Confidentiality Provided to Respondents

HHS does not intend to publish the quarterly reports on HHS' website or otherwise. However, no individually identifiable personal health information will be collected and cannot, consequently, be disclosed.

11. Justification for Sensitive Questions

Section 2718(a) of the PHS Act requires issuers to report data on premium revenue, reimbursement for clinical services, quality improvement activities, non-claims costs, **This information has not been publicly disclosed and may be privileged and confidential. It is for internal government use only and must not be disseminated, distributed or copied to persons not authorized to receive the information.**

and Federal and State taxes and licensing and regulatory fees, for the purposes covered by this collection. It also requires information on the nature of the non-claims costs and provides for certain adjustments to both premium revenue and claims expenses that are also covered by this collection. Title 45 CFR §158.110 requires that in 2011 these reports be filed quarterly by mini-med plans and expatriate plans. These requirements promote greater public transparency and accountability for the use of premium dollars.

12. Estimates of Annualized Burden Hours (Total Hours and Wages)

An issuer of mini-med plans and/or expatriate plans that applies a “special circumstances” adjustment to its 2011 MLR experience, in accordance with §158.221(b)(3) and (4) of the IFR, must separately aggregate its MLR data from other policies and submit three quarterly reports to the Secretary in 2011.

We estimate that each of the 75 issuers who are anticipated to offer expatriate or mini-med coverage will offer coverage in five states. We further estimate that each quarterly filing will require approximately six person-days of effort. (Note that this is the incremental effort required to prepare a quarterly filing. As described in the regulatory impact analysis, the one-time or start-up costs incurred by an issuer will be associated with the development of policy, procedures, and systems required to prepare the annual report for the Secretary. Those one-time costs are outside the scope of this clearance which addresses only the quarterly submissions during 2011.)

As described in the regulatory impact analysis that accompanied the interim final rule, the preparation and submission of reports is expected to require a mix of skills. We estimate that 45 percent of the person-hours will involve accounting and less senior actuarial staff; 45 percent of the hours will involve information systems staff; 5 percent of the hours will involve financial manager and more senior actuarial staff; and 5 percent of the hours will involve legal staff. The average hourly compensation, including fringe benefits and overhead expenses is expected to be approximately \$51.

Thus we estimate that a typical plan will, on average, require just over 60 staff hours at an average expense of approximately \$3,100 to prepare a quarterly filing. Over the course of the year, each of the issuers of mini-med or expatriate coverage will prepare 15 filings, or five filings in each of the first three quarters of 2011.

The total burden associated with this quarterly reporting requirement is estimated to be 70,200 hours with a total cost to insurers of \$3.5 million. The burden for the average company is expected to be approximately 940 hours, or less than one half of a full-time equivalent employee, with an average cost of approximately \$47,000.

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12A. Estimated Annualized Burden Hours

Forms (if necessary)	Type of Respondent	Number of Respondents	Number of Responses per Respondent	Estimated Burden Hours per Response	Total Estimated Burden Hours
Quarterly Report	Private Company	75	15	62.4	70,200
Total					70,200

12B. Cost Estimate for All Respondents Completing the Quarterly Report (Annualized)

Type of respondent	Number of respondents	Average Number of Responses per Respondent	Average Burden Hours	Wage per Hour (including fringe*)	Burden Costs per Annualized Response
Mini-med issuer	50	15	62.4	\$52.46	\$3,274
Expatriate issuer	25	15	62.4	\$52.46	\$3,274
Total			62.4	\$52.46	\$3,274

* Bureau of Labor Statistics May 2009 National Occupational Employment and Wage Estimates for: Computer System Analysts (Occupation Code 15-1051), Management Analysts (Occupation Code 13-1111), Financial Managers (Occupation Code 11-3031), Lawyers (Occupation Code 23-1011), Accountants and Auditors (Occupation Code 13-2011), Executive Secretaries and Administrative Assistants (Occupation Code 43-6011), Billing and Posting Clerks (Occupation Code 43-3021). Fringe benefits estimated at 33% of hourly wage. Salaries stated in 2010 dollars.

13. Estimates of other Total Annual Cost Burden to Respondents or Record Keepers/Capital Costs

The data that is used to compile an issuer’s quarterly filing is a subcomponent of the data used to compile the annual report. The IFR requires issuers to maintain records that support the data reported on the annual filing. However, this reporting requirement is solely concerned with the quarterly reporting required of plans offering mini-med and expatriate coverage in advance of the annual reporting that all issuers are required to do. Although there is no incremental record keeping costs associated with the quarterly filing, the annual record keeping cost per issuer is approximately \$17 to \$29.

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14. Annualized Cost to Federal Government

Type Federal employee support	Total Burden Hours per reviewer	Total reviewers	Hourly Wage Rate (GS 14 equivalent) – (includes fringe)	Total Federal Government Costs
Data Analysis	1 hr per data submission for each Quarterly and Annual filing (75 filers 4 times per yr – 300 hrs)	1	\$72	\$21,600
Total				\$21,600

Salaries are based on a 14 Grade/Step 1 in Washington DC area with the allowance up to \$150,000 to include fringe.

15. Explanation for Program Changes or Adjustments

This is a new information collection.

16. Plans for Tabulation and Publication and Project Time Schedule

The first quarterly collection of data from mini-med plans and expatriate plans is due May 1, 2011 for the quarter ending March 31, 2011. The second quarterly report is due by August 1, 2011 for the quarter ending June 30, 2011. And the remaining quarterly report is due to the Secretary by November 1, 2011 for the quarter ending September 30, 2011.

17. Reason(s) Display of OMB Expiration Date is Inappropriate.

In accordance with 45 CFR §158.120(d)(3) and(4), issuers will only submit these quarterly reporting forms to the Secretary for the 2011 MLR reporting year. Therefore, a three year OMB expiration date for the quarterly reporting forms does not apply.

18. Exceptions to Certification for Paperwork Reduction Act Submissions

There are no exceptions to the certification.

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B. Collection of Information Employing Statistical Methods

Not applicable. The information collection is transactional in nature and does not employ statistical methods or model development by States.

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