

## **Emergency Justification**

On July 23, 2010, the Departments of Health and Human Services (HHS), Labor, and the Treasury (the Departments) issued interim final rules (IFR) implementing PHS Act section 2719 at 75 FR 43330 (July 2010 regulations), regarding internal claims and appeals and external review processes for group health plans and health insurance issuers offering coverage in the group and individual markets. The IFR has been amended (“the amended IFR”) to reflect policy changes agreed upon by the Departments. The requirements of PHS Act section 2719 and the amended IFR provide a system with respect to applicability of either a State external review process or a Federal external review process for non-grandfathered group health plans and health insurance issuers in the group and individual markets. The term “group health plan” includes both insured and self-insured group health plans. How PHS Act section 2719 and the amended IFR impact plans and issuers varies, depending on the type of coverage: Self-insured plans subject to ERISA, fully insured plans, and self-insured, non-federal governmental plans. The latter two types of coverage are regulated by HHS.

## **Public Harm**

The justification for the emergency review and approval of the amended information collection request revolves around the appeal rights of consumers enrolled in fully insured plans in States that do not meet the requirements for State external review processes under PHS section 2719(b)(1) and 2719(b)(2) and consumers in self-funded, non-federal governmental health plans. These appeal rights are provided under the authority of PHS section 2719, and the amended IFR. Starting plan or policy years on or after September 23, 2010 non-grandfathered, self-funded, non-federal governmental health plans are required to follow the Federal external review process described in the amended IFR. Thus there is a two-fold need for expediency in reviewing this information collection request.

- 1) The amended IFR makes modifications to the Federal external review process and, therefore, changes the burden placed on health insurance issuers and group health plans. These new requirements take effect in July 2011. As a result, emergency approval of the information collection in the PRA modification is necessary because otherwise the people in these plans will not benefit from the appeals rights promised to them in the amended IFR.
- 2) As more fully insured plans and self-funded, non-federal governmental health plans lose grandfathered status more plans will be required to use the Federal external review process. Without emergency approval of the PRA modification, people in these plans that lose their grandfathered status will not necessarily receive the appeal rights they are entitled to under the amended IFR.