Supporting Statement for Early Retiree Reinsurance Program PRA Information Collection Package and Accompanying Instructions, as Revised and submitted to OMB on DATE
OMB #0938-1087

A. Background

Under 42 U.S.C. §18002 and implementing regulations at 45 CFR Part 149, employment-based plans that offer health benefits to early retirees and their spouses, surviving spouses and dependents are eligible under a temporary program to receive a tax-free reimbursement for the costs of certain health benefits for such individuals (the Early Retiree Reinsurance Program, or ERRP) In order to qualify, plan sponsors must submit a complete application to the Department of Health & Human Services (HHS), and must continually update any incorrect or outdated information in its application. As of May 6, 2011, plan sponsors may not longer submit applications to the program, pursuant to the HHS Secretary's authority under 42 U.S.C. 18002(f). However, sponsors must continue to update any incorrect or outdated information in their applications. In order to receive reimbursement under the program, they must also submit summary and detailed documentation of actual costs for health care benefits, which consists of documentation of actual costs for the items and services involved, and a list of individuals to whom the documentation applies. Once HHS reviews and analyzes the information on the application, notification will be sent to the plan sponsor about its eligibility to participate in the program. Once HHS reviews and analyzes each reimbursement request, reimbursement under the program will be made to the sponsor, as appropriate. The program's funding is limited to $5 billion, and the program sunsets on January 1, 2014.

B. Justification

1 . Need and Legal Basis

Under 42 U.S.C. §18002 and its implementing regulations at 45 CFR Part 149, employment-based plans that offer health benefits to early retirees and their spouses, surviving spouses and dependents are eligible under a temporary program to receive a tax-free reimbursement for the costs of certain health benefits for such individuals. In order to qualify, plan sponsors must submit a complete application to HHS, and must continually update any incorrect or outdated information in its application. As of May 6, 2011, plan sponsors may not longer submit applications to the program, pursuant to the HHS Secretary's authority under 42 U.S.C. 18002(f). However, sponsors must continue to update any incorrect or outdated information in their applications... In order to receive reimbursement under the program, they must also submit summary and detailed documentation of actual costs for health care benefits, which consists of documentation of actual costs for the items and services involved, and a list of individuals to whom the documentation applies. Once HHS reviews and analyzes the information on the application, notification will be sent to the plan sponsor about its eligibility to participate in the program. Once HHS reviews and analyzes each reimbursement request, reimbursement under the program will be made to the sponsor, as appropriate.

2. Information Users

HHS has contracted with outside contractors to assist in the administration of the program. Once the plan sponsor submits the program's application, HHS will analyze the application to determine

whether the sponsor qualifies for the program. If so, in order to receive reimbursement under the program, they must also submit documentation of actual costs for health care benefits, which consists of summary and detailed documentation of actual costs for the items and services involved, and a list of individuals to whom the documentation applies.

3. Use of Information Technology

The application process for the program is a paper process. However, once an application is approved, HHS will send an email to the Account Manager and Authorized Representative identified on the application, inviting them to register with the ERRP Secure Website. Additionally, Account Managers and Authorized Representatives can identify for HHS other individuals to perform certain ERRP functions (e.g., request reimbursement, report costs) on behalf of the plan sponsor. Upon doing so, HHS will send emails to these other individuals, so they can register with the ERRP Secure Website. This process of electronically inviting individuals to register with the ERRP website, also applies when a sponsor changes the identity of the individuals serving in these roles, after the application has been completed and submitted. . Collectively, these individuals can use the website to submit lists of early retirees, cost data, changes to plan sponsor and plan information, etc.

4. Duplication of Efforts

The data collected on the application and for the purpose of requesting reimbursement are not currently being collected through any other mechanism. Therefore, this information collection does not duplicate any other effort and the information cannot be obtained from any other source.

5. Small Businesses

HHS has made efforts to minimize the burden that this collection of information will have on all submitting entities including small businesses. We expect that, for the majority of plan sponsors, the benefits of receiving the program's reimbursement payments will far exceed the cost associated with all aspects of the data collections associated with the program (to the extent the limited program funds permit).

6. Less Frequent Collection

A sponsor need only make one reimbursement request for each application per plan year (unless the sponsor discovers inaccuracies in data submitted for a previous reimbursement request).

7. Special Circumstances

A sponsor would have to report information to HHS more often than quarterly, in the unlikely event that a sponsor changed ownership more frequently than quarterly, as every change of ownership must be reported. Also, in the event the information in a sponsor's application becomes outdated, or the sponsor discovers that it provided incorrect information in its application, more frequently than quarterly, a sponsor would have to report information to HHS more often than quarterly.

There are no special circumstances where sponsors would be required to prepare a written response to a collection of information in fewer than 30 days after receipt of it.

There are no special circumstances where sponsors would be required to submit more than an original and two copies of any document.

There are special circumstances that would cause an information collection to be conducted which would require sponsors to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years. Program implementing regulations require that sponsors maintain the following records for 6 years after the expiration of the plan year in which costs were incurred:

1. All documentation, data, and other information related to 45 CFR Part 49, and any other records specified by the Secretary.
2. Any other records specified in additional guidance published by the Secretary of HHS.

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There are no special circumstances that would cause an information collection 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.

There are no special circumstances that would cause an information collection requiring the use of a statistical data classification that has not been reviewed and approved by OMB.

There are no special circumstances that include 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.

There are no special circumstances where sponsors would be required to submit proprietary trade secrets, 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.

8. Federal Register/Outside Consultation

We are requesting a 30-day Federal Register comment period as part of this PRA submission. Our solicitation of comments constitutes our 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, and on the data elements to be recorded, disclosed, or reported.

In addition, HHS may periodically conduct industry focus groups to continue to improve the operations of the program.

9. Payments/Gifts to Respondents

There are no payments or gifts to respondents.

10. Confidentiality

We are assuring potential applicants to the ERRP that laws, regulations, and guidance associated with

the Health Insurance Portability and Accountability Act (HIPAA) of 1996, and the Privacy Act of 1974 (as amended) will apply to any information collected by HHS for purposes of this program.

The regulations governing the program will require that officers, employees, and contractors of the HHS may use information collected for the program only for the purposes of, and to the extent necessary, to carry out the requirements of the program. We have assured on an ongoing basis that any proprietary information submitted by applicants will not be disclosed.

11. Sensitive Questions

No questions of a sensitive nature, such as sexual behavior and attitude and religious beliefs are asked.

12. Burden Estimates (Hours & Wages)

In the currently approved PRA package, we estimated an average burden per entity of 337 hours to comply with the information collection requirements specified in the regulation at 45 C.F.R. Part 149, for the first year of the program (with the burden decreasing in subsequent years, to 293 hours). The revisions submitted as part of this revised PRA package do not include burden estimates for the first year of the program (July 1, 2010 through June 30, 2011), as that program year has expired. Rather, this revised PRA package includes burden estimates for each subsequent year of the program. For the two program years with the highest burden estimate (July 1, 2011 through June 30, 2012, and July 1, 2012 through June 30, 2013), we estimate an average burden of 309 hours. This increase in burden hours (from 293 to 309) is attributable to the fact that we are adding estimated burden hours associated with submitting appeals (8 hours), and for submitting reopening requests (8 hours). For the remaining program year (July 1, 2013 through June 30, 2014), the burden estimate decreases from 293 hours to 221 hours, due largely to the fact that we estimate that those plan sponsors that will report data inaccuracies during that program year, will do so an average of one time, rather than two times. Note that the estimates in the currently approved package (and in this revised package) included the burden associated with completing the Prima Facie Evidence Cover Sheet, and the burden associated with reading the guidance papers on disclosing data inaccuracies, in the burden estimates for submitting reimbursement requests (i.e., for submitting costs of medical claims involved), and for disclosing data inaccuracies, respectively.

The burden for the years with the highest hourly burden estimate (July 1, 2011 through June 30, 2012, and July 1, 2012 through June 30, 2013) is broken down as follows:

Updating Information in an Application (1 hour)

- Reporting the change: 1 hour

Develop, sign, and maintain written agreement(s) with health insurance issuer, employment-based plan, or other entity administering the plan regarding disclosure of information, data, documents, and records to the Secretary (1 hour)

- Develop and sign written agreements: 55 minutes
- Maintain agreements: 5minute

Develop, implement, and maintain policies and procedures to protect against fraud, waste, and abuse (20 hours)

- Develop and implement policies and procedures: 18 hours
- Maintain policies and procedures: 2 hours

Submitting Reimbursement Requests (i.e., documentation of costs of medical claims) (176 hours)

- Reading instructions and related guidance: 8 hours
- Extract and compile identifying information on early retirees, spouses, surviving spouses, and dependents for whom a reimbursement request is being made: 46 hours
- Extract and compile documentation of actual costs of health benefits for which claims are being submitted, for each early retiree, spouse, surviving spouse, and dependent for whom a reimbursement request is being made: 122 hours

Reporting Data Inaccuracies (88 hours)

- Reading instructions and related guidance: 4 hours
- Extract and compile corrected identifying information on early retirees, spouses, surviving spouses, and dependents for whom a corrected reimbursement request is being made: 23 hours
- Extract and compile documentation of corrected actual costs of health benefits for which claims are being submitted, for each early retiree, spouse, surviving spouse, and dependent for whom a corrected reimbursement request is being made: 61 hours

Report Sponsor Change of Ownership (1 hour)

- Report details any of change of ownership: 40 minutes
- Complete any paperwork associated with change of ownership: 20 minutes

Maintaining and Furnishing Records to the HHS Secretary (6 hours)

- Maintaining records: 1 hour
- Furnishing records: 5 hours

Preparing and Submitting Appeals (8 hours)

- Reading instructions and related guidance: 30 minutes
- Researching materials necessary to draft appeal: 4 hours, 30 minutes
- Drafting and submitting appeal request: 3 hours

Preparing and Submitting Reopening Requests (8 hours)

- Reading instructions and related guidance: 30 minutes
- Researching materials necessary to draft appeal: 4 hours, 30 minutes
- Drafting and submitting reopening request: 3 hours

For estimates of annualized costs to respondents for the hour burdens above, for each remaining year of the ERRP, see the document submitted as part of this revised PRA package entitled Summary of Burden Estimates Associated with Revised PRA Package 0938-1087 submitted for OMB approval on DATE

13. Capital Costs

(a) Total Capital and Start-up Cost

We have determined that there are no new capital outlays required to participate in the program. We have assumed that all businesses will own at least one computer and have access to the internet.

(b) Total Operation and Maintenance and Purchase of Service Component

We estimate that there may be expenses associated with hiring of vendors to assist plan sponsors in gathering and aggregating health benefit cost data for early retirees and their spouses, surviving spouses, and dependents and complying with ongoing information sharing requirements. Those expenses are subsumed in the burden estimates discussion contained in Section 12 of this paper.

14. Cost to Federal Government

The cost to the Federal Government is estimated to be $30 million annually. This amount includes the costs of 10 HHS full time employees (FTEs) and the necessary contractors to support the operations of the program. In order to not introduce unnecessary risk to the Federal Government's procurement strategy, more granular Federal Government cost estimates are not being provided at this time.

15. Change to Burden

In the currently approved PRA package, we estimated an average burden per entity of 337 hours to comply with the information collection requirements specified in the regulation at 45 C.F.R. Part 149, for the first year of the program (with the burden decreasing in subsequent years, to 293 hours). The revisions submitted as part of this revised PRA package do not include burden estimates for the first year of the program (July 1, 2010 through June 30, 2011), as that program year has expired. Rather, this revised PRA package includes burden estimates for each subsequent year of the program. For the two program years with the highest burden estimate (July 1, 2011 through June 30, 2012, and July 1, 2012 through June 30, 2013), we estimate an average burden of 309 hours. This increase in burden hours (from 293 to 309) is attributable to the fact that we are adding estimated burden hours associated with submitting appeals (8 hours), and for submitting reopening requests (8 hours). For the remaining program year (July 1, 2013 through June 30, 2014), the burden estimate decreases from 293 hours to 221 hours, due largely to the fact that we estimate that those plan sponsors that submit a reimbursement request (i.e., documentation of actual costs of medical claims involved) during that program year, will do so an average of one time, rather than two times.

Note that the burden hours associated with reading the guidance materials related to disclosing data inaccuracies that are being included with this revised PRA submission, and with completing the Prima Facie Evidence Cover Sheet that is being included with this revised PRA submission, were already accounted for in the PRA package OMB approved on December 22, 2010. Specially, the burden associated with completing the Prima Facie Evidence cover sheet, was included in the burden estimate for submitting a reimbursement request. The burden associated with reading the guidance paper on reporting data inaccuracies was already included in the burden estimate for disclosing data inaccuracies.

16. Publication/Tabulation Dates

A very limited portion of the collection of information on the program application is and will continue to be published. Specifically, a list of the names of the plan sponsors identified on the applications will be periodically published and posted on the HHS and/or ERRP Web Site. The time schedule for such publication has yet to be determined. At this time, HHS has not conclusively decided whether to publish any additional information provided by sponsors, or what such information might be.

17. Expiration Date

This data information contains a data collection instrument to be used for several years or longer. Therefore, HHS would like an exemption from displaying the expiration date as this form is used on a continuing basis.

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18. Certification Statement

There are no exceptions to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions, " of OMB Form 83-I.