

Summary of Burden Estimates Associated with Revised PRA Package 0938-1087
Submitted for OMB approval on DATE

Note: The revisions to the PRA package do not change the burden estimates approved by OMB on December 22, 2010, for PRA Package 0938-1087

Requirements to Participate in Early Retiree Reinsurance Program (45 CFR 149.35)

Section 149.35(b)(1)

Section 149.35(b)(1) requires plan sponsors to make available documentation, data, and other information related to this part and any other records specified by the Secretary, as stated in Sec. 149.350. The burden associated with this requirement is detailed in our discussion of Sec. 149.350.

Section 149.35(b)(2)

Section 149.35(b)(2) states that a plan sponsor must have a written agreement with its health insurance issuer (as defined in 45 CFR 160.103) or employment-based plan (as applicable) regarding disclosure of information, data, documents, and records to the Secretary, and the health insurance issuer or employment-based plan must disclose to the Secretary, on behalf of the sponsor, the information necessary for the sponsor to comply with the program, this part, and program guidance. The burden associated with this requirement is the time and effort necessary for a plan sponsor to develop, sign, and maintain the aforementioned written agreement with its health insurance issuer or employment-based plan.

Burden Estimates for 149.35(b)(2)

We believe that it will take 1 hour to develop, sign, and maintain one such written agreement, and that each sponsor on average will need to maintain and sign 4 such agreements. We estimate that 7,500 ERRP plan sponsors must comply with this requirement. Thus, we estimate the annual burden associated with this requirement to be 30,000 hours, with an estimated cost of compliance of \$2,235,300. For each of the remaining years of the program, we estimate that roughly one-quarter of 7,500 sponsors (1,875) will contract with one different entity each year to disclose information, data, etc. to the Secretary. Thus we estimate that the cost of compliance for each of those years is \$139,706.25

*Burden estimates for section 149.35(b)(2) are based on an hourly labor rate of \$74.51, which is the hourly labor rate for a Federal GS 15, Step 10 employee in the Washington D.C./Baltimore locale.

Section 149.35(b)(3)

Section 149.35(b)(3) requires plan sponsors to have procedures to protect against fraud, waste and abuse under this program, and must comply timely with requests from the Secretary to produce the procedures and any documents or data to substantiate the implementation of the procedures and their effectiveness. Additionally, Sec. 149.35(b)(5) requires plan sponsors to comply timely with requests from the Secretary to produce the procedures and any documents or data to substantiate the implementation of the procedures and their effectiveness. The burden associated with the requirements in Sec. 149.35(b)(3) is the time and effort necessary to develop, implement, and maintain procedures to protect against fraud, waste and abuse under this program. There is also burden associated with producing the procedures and any supporting documentation up request by the Secretary.

Burden Estimates for Section 149.35(b)(3)

We estimate that it will take 20 hours for each plan sponsor or designee to develop, implement, and maintain one set of such policies and procedures. We believe that three-quarters of the 7,500 expected plan sponsors will be contracting with entities all of which already have fraud, waste and abuse programs and procedures in place. Of the remaining 1,875 estimated sponsors, we believe each will have to develop, implement, and maintain two sets of such programs and procedures. Therefore, we estimate the cost associated with this requirement to be \$4,159,500 for the first year of the program.

We estimate that, for the subsequent years of the program, roughly one-quarter of 7,500 sponsors (i.e., 1,875) will contract with one new entity each year that does not have fraud, waste, and abuse procedures in place, to participate in administering the plan. For each of those years, the annual burden estimated for this is 1,875 sponsors multiplied by 20 hours, or 37,500 hours, with estimated costs equal to \$2,079,750.

*Burden estimates for section 149.35(b)(3) are based on an hourly labor rate of \$55.46, which is the hourly labor rate for a Federal GS 13, Step 10 employee in the Washington D.C./Baltimore locale.

Section 149.35(b)(4)

Section 149.35(b)(4) also requires plan sponsors to submit an application to the Secretary in the manner, and at the time, required by the Secretary, as specified in Sec. 149.40. The burden associated with this requirement is detailed in our discussion of Sec. 149.40.

The ERRP Application (45 CFR 149.40)

Section 149.40 discusses the application process for the early retiree reinsurance program. Sec. 149.40(a) requires an applicant to submit an application to participate in this program to the Secretary, which is signed by an authorized representative of the applicant who certifies that the information contained in the application is true and accurate to the best of the authorized representative's knowledge and belief. Section 149.40(e) states that an applicant must submit an application for each plan for which it will submit a reimbursement request. Furthermore, as part of the application process, every application must be accompanied by the information listed in Sec. 149.40(f).

The burden associated with the requirements in this section is the time and effort necessary for a plan sponsor or its designee to complete an application for each plan for which it will submit a reimbursement request. In addition, there is burden associated with compiling and submitting the required ancillary information listed in Sec. 149.40(f).

Burden Estimates for Section 149.40

We estimate that the program will receive an average of 1 application from each plan sponsor or designee, and estimate that 7,500 plan sponsors will submit an application. We estimate that it will take 22 hours for a plan sponsor or designee to complete one application package. Thus, we estimate the total annual burden associated with this requirement to be 165,000 hours. The total estimated annual cost associated with this requirement is \$ 9,293,775. This is a one-time burden, as sponsors are not required to submit a new application for each plan year.

*This Burden estimate for section 149.40 is based on an hourly labor rate of \$55.46 per hour for 21 hours of response, and \$74.51 per hour for 1 hour of response. These are the hourly labor rates for a Federal GS 13, Step 10 employee, and a Federal GS 15 Step 10 employee, respectively, in the Washington D.C./Baltimore locale.

A sponsor also has an obligation to update any incorrect or outdated information in its application. We estimate that, for each year of the program, 1,500 plan sponsors will make one such update, and that each such update will take one hour. Thus, we estimate the total annual burden associated with this requirement to be 1,500 hours. The total estimated annual cost associated with this requirement is \$83,190.

*This Burden estimates for section 149.40 is based on an hourly labor rate of \$55.46 per hour. This is the hourly labor rate for a Federal GS 13, Step 10 employee, in the Washington D.C./Baltimore locale.

Documentation of Actual Costs of Medical Claims Involved (45 CFR 149.335)

Section Sec. 149.335 requires that sponsors must submit claims, with each submission consisting of a list of early retirees for whom claims are being submitted, and documentation of

the actual costs of the items and services for each claim being submitted. These materials must be submitted in a form and manner specified by the Secretary. Additionally, in order for a sponsor to receive reimbursement for the portion of a claim that an early retiree paid, the sponsor must submit prima facie evidence that the early enrollee paid his or her portion of the claim. The burden associated with the requirements in this section is the time and effort necessary for sponsors to assemble and submit the aforementioned information.

Burden Estimates for Section 149.335

We estimate that it will take each sponsor an average of 88 hours to comply with these requirements, with the number of hours varying based upon the number of early retirees for whom claims are submitted, the number of claims, the technology used to generate the required information, etc. We estimate that each of the estimated 7,500 participating sponsors will make two submissions annually. Thus, the total estimated annual burden associated with this requirement is 1,320,000 hours. The total estimated annual cost associated with these requirements is \$51,361,200

*Burden estimates for section 149.335 are based on an hourly labor rate of \$38.91, which is the hourly labor rate for a Federal GS 11, Step 10 employee in the Washington D.C./Baltimore locale.

Maintenance of Records (45 CFR 149.350)

Section 149.350(a) requires the sponsor of the certified plan (or a subcontractor, as applicable) must maintain and furnish to the Secretary, or its designee, upon request the records as specified in Sec. 149.350(b). The records must be maintained for 6 years after the expiration of the plan year in which the costs were incurred, or longer if otherwise required by law. Similarly, as required by Sec. 149.350(d), the sponsor must require its health insurance issuer or employment-based plan, as applicable, to maintain and produce upon request records to satisfy subparagraph (c) of this regulation. The burden associated with the requirements in this section is the time and effort necessary to retain the specified records.

Burden Estimates for Section 149.350

We estimate that each of 7,500 sponsors will require 6 hours to retain the records. Thus, we estimate the total estimated annual burden associated with this requirement to be 45,000 hours. We estimate the total annual cost of this requirement to be \$ 1,750,950.

*Burden estimates for section 149.350 are based on an hourly labor rate of \$38.91, which is the hourly labor rate for a Federal GS 11, Step 10 employee in the Washington D.C./Baltimore locale.

Appeals (45 CFR 149.500 and 149.510)

Section 149.500(d) states that if a sponsor appeals an adverse reimbursement determination, the sponsor must submit the appeal in writing to the Secretary within 15 days of receipt of the determination. Section 149.510 requires a request for appeal to specify the findings or issues with which the sponsor disagrees and the reasons for the disagreements. In addition, the request for appeal may include supporting documentary evidence the sponsor wishes the Secretary to consider. HHS expects to issue clarifying guidance indicating that, in specifying the findings or issues with which the sponsor disagrees and the reasons for the disagreements, the sponsor should send a copy of the determination being appealed; the items and/or services at issue; the amount of program reimbursement at issue; the individuals to whom the items and/or services at issue, were provide; and any request for an extended due date for submitting supporting documentary evidence. The burden associated with the aforementioned requirements is the time and effort necessary for a sponsor to draft and submit an appeal, including supporting documentation, as specified in the draft appeals guidance submitted as part of this PRA submission. As we stated in the currently approved PRA package, we reiterate that while this requirement is subject to the PRA, we believe the associated burden is exempt under 5 CFR 1320.4. In this case, the information associated with an appeal would be collected subsequent to an administrative action, that is, an adverse reimbursement determination.

Sponsor's Duty To Report Data Inaccuracies (45 CFR 149.600)

Section 149.600 requires a sponsor to disclose any data inaccuracies on which a reimbursement request has been made, including inaccurate claims data and negotiated price concessions, in a manner and at a time specified by the Secretary in guidance. The burden associated with this requirement is the time and effort necessary for a sponsor to comply with the reporting requirement, as specified in the guidance submitted as part of this PRA submission.

Burden Estimates for Section 149.600

We estimate that 3,750 sponsors annually will be subject to this requirement, and that the burden associated with this requirement will be 88 hours per sponsor (one disclosure per year per sponsor, each disclosure having an estimated burden of 88 hours). We estimate the annual burden associated with this requirement to be 330,000 hours. The total estimated annual cost associated with this burden is \$12,840,300. We estimate that each such disclosure will take on average 88 hours, based on the draft guidance submitted as part of this PRA package that states that sponsors will make such disclosures by submitting a new reimbursement request reflecting an accurate Early Retiree List, accurate Summary Cost Data, an accurate Claims File, and accurate Evidence of Early Retiree Payment (if applicable).

*Burden estimates for section 149.600 are based on an hourly labor rate of \$38.91, which is the hourly labor rate for a Federal GS 11, Step 10 employee in the Washington D.C./Baltimore locale.

Sponsor's Ability to Request a Reopening

Section 149.610 permits a sponsor to request a reopening of a reimbursement determination. CMS expects to issue guidance stating that, as part of a request for reopening, a sponsor must submit its plan Sponsor ID (assigned by CMS), Application ID (assigned by CMS), a copy of the applicable reimbursement determination, a description of the issue, any supporting documentary evidence, and an analysis of the estimated financial impact, including the specific amount of ERRP reimbursement at issue. (A draft copy of this guidance, entitled Explanation of the Processes for Reporting Early Retiree and Claims Data Inaccuracies, and for Reopening, is included in this PRA submission). The burden associated with the aforementioned requirements is the time and effort necessary for a sponsor to read this guidance and draft and submit a reopening request, including supporting documentation. The submission of an ERRP reopening request is similar to the submission of an ERRP appeal under 45 CFR 149.500. Therefore, while this requirement under section 149.600 is subject to the PRA, we believe the associated burden is exempt under 5 CFR 1320.4. In this case, the information associated with a reopening request would be collected subsequent to an administrative action, that is, a reimbursement determination.

Change of Ownership Requirements (45 CFR 149.700)

Section 149.700(c) requires a sponsor that has a sponsor agreement in effect under this part and is considering or negotiating a change in ownership to notify the Secretary at least 60 days before the anticipated effective date of the change. The burden associated with the requirement is the time and effort necessary for a sponsor to comply with the reporting requirement.

Burden Estimates for Section 149.700

We estimate that it will take each sponsor an average of 1 hour to comply with these requirements, and that 75 sponsors per year will be subject to these requirements. Thus, we estimate the total annual burden associated with these requirements to be 75 hours, and the total cost associated with these requirements to be \$4,158.75

*Burden estimates for section 149.700 are based on an hourly labor rate of \$55.46, which is the hourly labor rate for a Federal GS 13, Step 10 employee in the Washington D.C./Baltimore locale.