

Justification for Non-material/Non-substantive Change CHIPRA Model Notice

On February 4, 2009, President Obama signed the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA, Pub. L. 111-3). Under ERISA section 701(f)(3)(B)(i)(I), PHS Act section 2701(f)(3)(B)(i)(I), and section 9801(f)(3)(B)(i)(I) of the Internal Revenue Code, as added by CHIPRA, an employer that maintains a group health plan in a State that provides medical assistance under a State Medicaid plan under title XIX of the Social Security Act (SSA), or child health assistance under a State child health plan under title XXI of the SSA, in the form of premium assistance for the purchase of coverage under a group health plan, is required to make certain disclosures. Specifically, the employer is required to notify each employee of potential opportunities currently available in the State in which the employee resides for premium assistance under Medicaid and CHIP for health coverage of the employee or the employee's dependents. These notices are referred to in this document as "Employer CHIP Notices."

ERISA section 701(f)(3)(B)(i)(II) requires the Department of Labor to provide employers with model language for the Employer CHIP Notices to enable them to timely comply with this requirement, which is referred to as the "Model Employer CHIP Notice" in this document. The model is required to include information on how an employee may contact the State in which the employee resides for additional information regarding potential opportunities for premium assistance, including how to apply for such assistance. Section 311(b)(1)(D) of CHIPRA provides that the Departments of Labor and Health and Human Services (HHS) shall develop the initial Model Employer CHIP Notices under ERISA section 701(f)(3)(B)(i)(II), and the Department of Labor shall provide such notices to employers, by February 4, 2010. Moreover, each employer is required to provide the initial annual notices to such employer's employees beginning with the first plan year that begins after the date on which the initial model notices are first issued.

In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)), the Department submitted an information collection request (ICR) to OMB in accordance with 44 U.S.C. 3507(d) for the model notice, and OMB approved the ICR under control number 1210-0137, which is currently schedule to expire on September 30, 2013.

HHS is proposing the form to provide clarity to consumers. The receive many calls from individuals who hope to obtain premium assistance for their private health insurance based on reading the notice. However, many of these consumers are not Medicaid or CHIP-eligible, and therefore, are not eligible for premium assistance. The edits clarify that consumers must be Medicaid or CHIP eligible in order to receive such assistance and do not make substantive changes to the notice. Based on the foregoing, the Department is hereby submitting a no material, nonsubstantive change request with OMB for the ICR..