

Supporting Statement
(REG-140038-10)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

The Patient Protection and Affordable Care Act, Public Law 111-148, (the Affordable Care Act) was enacted by President Obama on March 23, 2010. As part of the Act, Congress added section 2715 to the Public Health Service (PHS) Act which directs the Department of Health and Human Services, the Department of Labor, and the Department of the Treasury (collectively, the Departments), in consultation with the National Association of Insurance Commissioners (NAIC) and a working group comprised of stakeholders, to "develop standards for use by a group health plan and a health insurance issuer in compiling and providing to applicants, enrollees, and policyholders and certificate holders a summary of benefits and coverage explanation that accurately describes the benefits and coverage under the applicable plan or coverage." Plans and issuers are required to begin providing the required disclosure (herein referred to as a 'summary of benefits and coverage' or 'SBC') no later than March 23, 2012.

This document contains proposed regulations regarding disclosure of the summary of benefits and coverage and the uniform glossary for group health plans and health insurance coverage in the group and individual markets under the Affordable Care Act. This document implements the disclosure requirements to help plans and individuals better understand their health coverage, as well as other coverage options. The templates and instructions to be used in making these disclosures are being issued in a separate notice.

2. USE OF DATA

These amendments are proposed in connection with section 2715 of the PHS Act. This Act directs the Departments, in consultation with the National Association of Insurance Commissioners (NAIC) and a working group comprised of stakeholders, to "develop standards for use by a group health plan and a health insurance issuer in compiling and providing to applicants, enrollees, and policyholders and certificate holders a summary of benefits and coverage explanation that accurately describes the benefits and coverage under the applicable plan or coverage."

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

The SBC template will be made available to plans and issuers in MS Word, a widely available word processing application. Plans and issuers may choose to populate the template manually or to develop systems to capture and report the relevant data in the required standardized format.

4. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency wherever possible.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

Not applicable.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

Not applicable.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

Not applicable.

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

The Departments recognize the need for public comment on this NPRM. The Departments are seeking a full 3-year PRA approval and a full public comment period.

As required by PHS Act section 2715, the Departments consulted on this proposed collection with the NAIC, which convened a multi-stakeholder working group composed of representatives of consumer advocacy organizations, health insurance issuers, health care professionals, patient advocates including those representing individuals with limited English proficiency, and other qualified individuals. The NAIC process, conducted over many months, was open to the public and permitted oral and written comments from interested parties. Both industry and consumer groups sponsored consumer focus-group and cognitive interview testing to determine the usability of the forms. Additionally, the NAIC invited expert comment on the readability of the forms. These forms were discussed and agreed to by the working group and recommended to the Departments by the NAIC.

In addition to consultation with the NAIC, the Departments consulted with industry experts, including health insurance issuers and groups representing employers with self-funded health plans, to gain insight into the hour and burden associated with this collection, the tasks and level of effort required, and the

availability of data. The proposed collection reflects this extensive consultation.

This notice of proposed rulemaking was published in the Federal Register on August 22, 2011 (76 FR 52442), to provide the public a 60-day period in which to review and provide public comments relating to any aspect of the proposed regulation.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

Not applicable.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

This collection requires the disclosure of information regarding, among other things, premium rates, cost-sharing, covered benefits, and exceptions, reductions and limitations on coverage by plans and issuers directly to consumers. The purpose of this collection is to summarize information about the terms of the applicable plan or coverage that is described in fuller detail in the policy, certificate, or contract of insurance or the plan document. Therefore, the Departments believe this collection does not require the disclosure of trade secrets or other confidential information.

Generally, tax returns and tax return information are confidential as required by 26 U.S.C. 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

See attached.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

See attached.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

These information collection tools were developed by the Federal government for use by the industry. The Departments will periodically update these forms, as necessary. But because there are no program costs associated with this collection, the annualized cost to the Federal government is minimal.

15. REASONS FOR CHANGE IN BURDEN

This is a new data collection activity.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

Not applicable.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulation sunsets as of the expiration date. Taxpayers are not likely to be aware that the Service intends to request renewal of OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT ON OMB FORM 83-I

Not applicable.

Note: The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.