

SUPPORTING STATEMENT
Affordable Care Act; Notice of Patient Protections
(TD 9491; REG-120399-10)
OMB# 1545-2181

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 2719A of the Public Health Service Act (PHS Act), incorporated into Code section 9815 by section 1563(f) of the Patient Protection and Affordable Care Act, Public Law 111-148, requires that a group health plan or a health insurance issuer requiring or allowing for the designation of a primary care provider provide notice to participants of the right to designate a primary care provider (including a pediatrician for a child) and of the right to obtain access to obstetrical or gynecological services without referral from a primary care provider.

The regulations impose a requirement for the designation of a pediatrician similar to the requirement for the designation of a primary care physician. Specifically, if a plan or issuer requires or provides for the designation of a participating primary care provider for a child by a participant, beneficiary, or enrollee, the plan or issuer must permit the designation of a physician (allopathic or osteopathic) who specializes in pediatrics as the child's primary care provider if the provider participates in the network of the plan or issuer.

The regulations also provide that a group health plan, or a health insurance issuer may not require authorization or referral by the plan, issuer, or any person (including a primary care provider) for a female participant, beneficiary, or enrollee who seeks obstetrical or gynecological care provided by an in-network health care professional who specializes in obstetrics or gynecology.

When applicable, it is important that individuals enrolled in a plan or health insurance coverage know of their rights to (1) choose a primary care provider or a pediatrician when a plan or issuer requires participants or subscribers to designate a primary care physician; or (2) obtain obstetrical or gynecological care without prior authorization. Accordingly, paragraph (a)(4) of the regulations requires such plans and issuers to provide a notice to participants (in the individual market, primary subscribers) of these rights when applicable. Model language is provided in these regulations. The notice must be provided whenever the plan or issuer provides a participant with a summary plan description or other similar description of benefits under the plan or health insurance coverage, or in the individual market, provides a primary subscriber with a policy, certificate, or contract of health insurance.

2. USE OF DATA

This is a third party disclosure requirement. Individuals who are required to designate a primary care provider need to know about their rights under PHS Act section 2719A to designate any available primary care provider in the plan's network, to designate a

pediatrician as the primary care provider for a child, and to receive obstetrical or gynecological services without the referral of a primary care provider.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

Plans and issuers may satisfy this disclosure requirement by electronic means if they comply with applicable electronic disclosure requirements. The Departments estimate that 38% of the notices will be furnished electronically.

4. EFFORTS TO IDENTIFY DUPLICATION

Under the regulations, this notice of patient protections must be provided at the time that descriptions of plan benefits are distributed; it is expected that this notice will be provided as part of that distribution. In addition, under the regulations, the provision of the notice by either the plan or the issuer satisfies the obligation for both parties.

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

Under the regulations, a single notice provided to an individual will satisfy the obligation for both parties responsible for providing the notice, the plan and the issuer. Most small businesses maintaining a group health plan provide benefits through health insurance coverage. In such a case, it is expected that the issuer of the health insurance coverage will satisfy the notice obligation on behalf of both the plan and the issuer.

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

An interim final rule was published in the *Federal Register* on June 28, 2010 (75 FR 37184), and offered a 60-day comment period prior to its effective date.

In response to our 60-day *Federal Register* notice dated September 4, 2013 (78 FR 59516), soliciting comment on the renewal of this information collection, no comments were received.

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

Not applicable.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Not applicable.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

No personally identifiable information (PII) is collected.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The Departments estimate that 339,000 ERISA-covered plans will need to notify an estimated 8.0 million policy holders of their plans' policy in regards to designating a primary care physician and for obstetrical or gynecological visits.

Because the interim final regulations provide model language for this purpose, the Departments estimate that five minutes of clerical time will be required to incorporate the required language into the plan document and ten minutes of a human resource professional's time will be required to review the modified language. These burdens will vary from year to year. Therefore, the Departments estimate that plans will incur an average annual hour burden of 66,000 hours to meet the disclosure requirement.

The Department of the Treasury equally shares this burden with the Department of Labor; therefore, the burden for the Department of the Treasury is approximately 33,000 hours.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

The Departments assume that only printing and material costs are associated with the disclosure requirement, as the regulations provide model language to be incorporated into existing plan documents. The Departments estimate that the notice will require one-half of a page, five cents per page printing and material cost will be incurred, and 38 percent of the notices will be delivered electronically. This results in a cost burden for the first year of \$124,000 ($\0.05 per page * $1/2$ pages per notice * 8.0 million notices * 0.62), an average annual burden of \$96,000 (50% to DOL and 50% to IRS). Our notice dated September 4, 2013, requested public comments, no responses were received.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

Not applicable -- third party disclosure.

15. REASONS FOR CHANGE IN BURDEN

There were no changes made to the document that resulted in any change to the burden previously reported to OMB. We are making this submission to renew the OMB approval.

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 regulations sunset as of the expiration date. Taxpayers are not likely to be aware that the Service intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

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.