

Supporting Statement – Part A
**Annual Eligibility Redetermination, Product Discontinuation
and Renewal Notices (CMS-10527)**

A. Background

The Patient Protection and Affordable Care Act, Pub. L. 111-148, was enacted on March 23, 2010; and the Health Care and Education Reconciliation Act of 2010, Pub. L. 111-152, was enacted on March 30, 2010 (collectively known as the “Affordable Care Act”). The Affordable Care Act reorganizes, amends, and adds to the provisions of Part A of title XXVII of the Public Health Service Act (PHS Act) relating to group health plans and health insurance issuers in the group and individual markets.

Section 1411(f)(1)(B) of the Affordable Care Act directs the Secretary of Health and Human Services (the Secretary) to establish procedures to redetermine the eligibility of individuals on a periodic basis in appropriate circumstances. Section 1321(a) of the Affordable Care Act provides authority for the Secretary to establish standards and regulations to implement the statutory requirements related to Exchanges (also referred to as Health Insurance Marketplaces or Marketplaces), qualified health plans (QHPs) and other components of title I of the Affordable Care Act. Under section 2703 of the PHS Act, as added by the Affordable Care Act, and sections 2712 and 2741 of the PHS Act, enacted by the Health Insurance Portability and Accountability Act of 1996, health insurance issuers in the group and individual markets must guarantee the renewability of coverage unless an exception applies.

B. Justification

1. **Need and Legal Basis**

The final rule “Patient Protection and Affordable Care Act; Annual Eligibility Redeterminations for Exchange Participation and Insurance Affordability Programs; Health Insurance Issuer Standards Under the Affordable Care Act, Including Standards Related to Exchanges” (79 FR 52994), provides that a Marketplace may choose to conduct the annual redetermination process for a plan year (1) in accordance with the existing procedures described in 45 CFR 155.335; (2) in accordance with procedures described in guidance issued by the Secretary for the coverage year; or (3) using an alternative proposed by the Marketplace and approved by the Secretary.

The guidance document “Guidance on Annual Redeterminations for Coverage for 2015”¹ contains the procedures that the Secretary is specifying for the coverage year, as noted in (2)

¹ Guidance on Annual Redeterminations for Coverage for 2015 (June 26, 2014). Available at <http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Guidance-on-annual-redet-option-2015-6-26-14.pdf>

above. These procedures will be adopted by the Federally-facilitated Marketplace. Under this option, the Marketplace will provide three notices. These notices may be consolidated.

The final rule also amends the requirements for product renewal and re-enrollment (or discontinuance) notices to be sent by QHP issuers in the individual market Marketplaces and specifies content for these notices. The accompanying bulletin “Form and Manner of Notices When Discontinuing or Renewing a Product in the Group or Individual Market”² provides standard notices to be sent by issuers of individual market QHPs and issuers in the individual market. The guidance takes into account comments we received in response to initial drafts of standard notices that were contained in previous CMS bulletins published on March 14, 2014 and June 26, 2014.³

States that are enforcing the Affordable Care Act⁴ may develop their own standard notices for product discontinuances, renewals, or both, provided the State-developed notices are at least as protective as the Federal standard notices. In such cases, issuers of individual market coverage: (1) must provide notices in the form of the State’s standard discontinuance and renewal notices, if required by the State, (2) may provide notices in the form of either the State’s standard discontinuance and renewal notices, or the Federal standard notices, as permitted by the State.

Issuers in the small group market may use the draft Federal standard small group notices released in the June 26, 2014 bulletin, or any forms of the notice otherwise permitted by applicable laws and regulations. Small group market issuers not using the form and manner of the draft Federal standard notices released in the June 26, 2014 bulletin to include the content described in the bulletin “Form and Manner of Notices When Discontinuing or Renewing a Product in the Group or Individual Market”.

2. Information Users

Consumers will need the information in these notices in order to understand the annual renewal process and the Marketplace redetermination process, as well as to make appropriate decisions regarding their coverage for the next plan year.

² Available at <http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Renewal-Notices-9-2-14-FINAL.pdf>

³ Draft Notices When Discontinuing or Renewing a Product in the Group or Individual Market (March 14, 2014). Available at: <http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/draft-discontinuance-renewal-notices-03-14-14.pdf>. Draft Standard Notices When Discontinuing or Renewing a Product in the Small Group or Individual Market (June 26, 2014). Available at: <http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Bulletin-on-Renewal-and-Discontinuation-Notices.pdf>.

⁴ Currently, Alabama, Missouri, Oklahoma, Texas, and Wyoming have informed HHS that they are not enforcing the Affordable Care Act in their jurisdictions. These are considered “non-enforcing” States. All other States are currently considered by HHS to be enforcing the Affordable Care Act.

3. Use of Information Technology

Marketplaces and issuers may provide notices electronically.

4. Duplication of Efforts

Marketplaces that opt to use an alternative set of redetermination procedures to what is described in existing 45 CFR 155.335 will send the notices in this collection instead of those in current requirements and may consolidate notices. So there would be no duplication. Issuers in the individual and small group markets currently have renewal and discontinuation notice requirements. The notices in this collection would be used to meet those requirements so there would be no duplication of efforts.

5. Small Businesses

These information collection requirements (ICRs) do not impact small businesses or entities.

6. Less Frequent Collection

If these notices are not sent annually before the open enrollment period, consumers will not have the necessary information to make their decisions regarding health insurance coverage for the upcoming plan year.

7. Special Circumstances

There are no special circumstances.

8. Federal Register/Outside Consultation

A Federal Register notice was published on November 4, 2014 (79 FR 65400), providing the public with a 60-day period to submit written comments on these ICRs. No comments were received.

9. Payments/Gifts to Respondents

No payments or gifts are associated with these ICRs.

10. Confidentiality

Privacy of the information provided will be protected to the extent provided by law.

11. Sensitive Questions

These ICRs involve no sensitive questions.

12. Burden Estimates (Hours & Wages)

We generally used data from the Bureau of Labor Statistics to derive average labor costs (including fringe benefits) for estimating the burden associated with the ICRs.

Annual Redetermination Notices

The final rule provides that a Marketplace has three options when conducting the annual redetermination process for a plan year. The first option is to use existing procedures. The second option is to use the procedures described in the guidance document “Guidance on Annual Redeterminations for Coverage for 2015”, and adopted by the Federally-facilitated Marketplace. Under this option, the Marketplace will provide three notices which may be consolidated. The third option for a State-based Marketplace is to utilize alternative procedures approved by the Secretary based on a showing by the Marketplace that such procedures meet specified criteria. We anticipate that fewer than 10 State-based Marketplaces will opt for the second and third options. Under 5 CFR 1320.3(c)(4), ICRs associated with these two options are not subject to the PRA as they would affect fewer than 10 entities in a 12-month period.

Renewal Notices

Health insurance issuers that are renewing coverage under a product in the small group or individual market, including the Marketplaces, are required to send a notice to enrollees.

The guidance document “Form and Manner of Notices When Discontinuing or Renewing a Product in the Group or Individual Market” includes the following standard renewal notices to be sent by issuers of individual market QHPs and issuers in the individual market:

- Renewal notice for the individual market where coverage is being renewed outside the Marketplace
- Renewal notice for the individual market where coverage is being renewed in a QHP offered under the same product through the Marketplace

Issuers in the small group market may use the draft Federal standard small group notices released in the June 26, 2014 bulletin, or any forms of the notice otherwise permitted by applicable laws and regulations. Small group market issuers not using the form and manner of the draft Federal standard notices released in the June 26, 2014 bulletin to include the content described in the accompanying bulletin “Form and Manner of Notices When Discontinuing or Renewing a Product in the Group or Individual Market”.

States that are enforcing the Affordable Care Act may develop their own standard notices. However, we anticipate that fewer than 10 States will opt for this alternative. Under 5 CFR 1320.3(c)(4), this requirement is not subject to the PRA as it would affect fewer than 10

entities in a 12-month period.

We estimate that there are 2,641 issuers in the individual market, including 575 QHP issuers, and 1,288 issuers in the small group market that will need to revise existing renewal notices to comply with the requirements in the guidance, with a total of 2,945 issuers in both markets. Since there are existing requirements for issuers to send renewal notices, we only estimate the burden to revise and automate the notices.

For issuers in the individual market outside the Marketplace and small group market, we estimate that it will require 3 hours of clerical labor (at a cost of \$33.67 per hour) to prepare the notice using the Federal standard notice (or a standard notice provided by their State) and 1 hour for a senior manager (at a cost of \$75.34 per hour) to review the notice. We also estimate that it will take a computer programmer 16 hours (at a cost of \$52.53 per hour) to write and test a program to automate the notices. The total annual burden for each issuer to develop the notice will be 20 hours with an equivalent cost of approximately \$1,017. For all 2,641 issuers in the individual market, the total annual burden will be 52,820 hours with an equivalent cost of approximately \$2.69 million. For all 1,288 issuers in the small group market, the total annual burden will be 25,760 hours with an equivalent cost of \$1.31 million.

Table 12.1 Estimated Annualized Burden for Renewal Notices for issuers outside the Marketplace

Respondent	Number of respondents	Number of notices per respondent	Burden per notice (Hours)	Labor cost per notice	Total burden for all respondents (Hours)	Total cost for all respondents
Issuer in Individual Market	2,641	1	20	\$1,016.81	52,820	\$2,685,385.97
Issuer in Small Group Market	1,288	1	20	\$1,016.81	25,760	\$1,309,646.77
Total	2,945				78,580	\$3,995,032.74

Individual Market QHP issuers will need to include some additional information in their notices and therefore will incur a higher burden. We estimate that it will require 3 hours of clerical labor (at a cost of \$33.67 per hour) to prepare the notice using the Federal standard notice (or a standard notice provided by their State) and 1 hour for a senior manager (at a cost of \$75.34 per hour) to review the notice. We also estimate that it will take a computer programmer 20 hours (at a cost of \$52.53 per hour) to write and test a program to automate the notices. The total annual burden for each issuer to develop the notice will be 24 hours with an equivalent cost of approximately \$1,227. For all 575 QHP issuers, the total annual

burden will be 13,800 hours with an equivalent cost of approximately \$705,479.

Table 12.2 Estimated Annualized Burden for Renewal Notices for Individual Market QHP Issuers

Number of respondents	Number of notices per respondent	Burden per notice (Hours)	Labor cost per notice	Total burden for all respondents (Hours)	Total cost for all respondents
575	1	24	\$1,226.92	13,800	\$705,479.29

Discontinuation (or re-enrollment) Notices

A health insurance issuer that is discontinuing coverage under a product in the small group or individual market, or a QHP issuer that is discontinuing a product offered through the individual market Marketplace and automatically enrolling an enrollee in a QHP under a different product offered by the same QHP issuer through the Marketplace, is required to send a notice to enrollees.

The guidance document “Form and Manner of Notices When Discontinuing or Renewing a Product in the Group or Individual Market” includes standard product discontinuance notices to be sent by issuers in the individual market. Each of the draft discontinuance notices in the June 26, 2014 bulletin has been replaced by two simplified notices. Issuers will send one of two types of discontinuation notices depending on whether the issuer is automatically enrolling an enrollee in a plan under another product offered by the issuer. Issuers will send the following notices as appropriate:

- Discontinuation notice for the individual market outside the Marketplace and the issuer is automatically enrolling the enrollee in a new plan
- Notice for the individual market where coverage was in a QHP offered through the Marketplace and the issuer is automatically enrolling the enrollee in a new product
- Discontinuation notice for the individual market outside the Marketplace and the issuer is not automatically enrolling the enrollee in a new plan
- Discontinuation notice for the individual market where coverage being discontinued was in a QHP offered through the Marketplace and the issuer is not automatically enrolling the enrollee in a new plan

Issuers in the small group market may use the draft Federal standard small group notices released in the June 26, 2014 bulletin, or any forms of the notice otherwise permitted by applicable laws and regulations. Small group market issuers not using the form and manner of the draft Federal standard notices released in the June 26, 2014 bulletin to include the content described in the accompanying bulletin accompanying bulletin “Form and Manner of Notices When Discontinuing or Renewing a Product in the Group or Individual Market”.

States that are enforcing the Affordable Care Act may develop their own standard notices.

However, we anticipate that fewer than 10 states would opt for this alternative. Under 5 CFR 1320.3(c)(4), this requirement is not subject to the PRA as it would affect fewer than 10 entities in a 12-month period.

We estimate that there are 2,641 issuers in the individual market, and 1,288 issuers in the small group market that will need to revise existing discontinuance notices to comply with the requirements in the guidance, with a total of 2,945 issuers in both markets. Since there are existing requirements for issuers to send product discontinuance notices, we only estimate the burden to revise and automate the notices.

For issuers in the individual market outside the Marketplace, the draft discontinuance notice in the June 26, 2014 bulletin has been replaced by two simplified notices, leading to lower burden per notice and a small increase in overall burden. We estimate that, for the notice when the issuer is automatically reenrolling the enrollee in another plan, it will require 2 hours of clerical labor (at a cost of \$33.67 per hour) to prepare the notice using the Federal standard notice (or a standard notice provided by their State) and 1 hour for a senior manager (at a cost of \$75.34 per hour) to review the notice template. We also estimate that it will take a computer programmer 5 hours (at a cost of \$52.53 per hour) to write and test a program to automate the notices. The total annual burden for each issuer to prepare the template will be 8 hours with an equivalent cost of approximately \$405. For all 2,641 issuers in the individual market, the total annual burden will be 21,128 hours with an equivalent cost of approximately \$1.1 million.

We estimate that, for the notice when the issuer is not automatically reenrolling the enrollee in another plan, it will require 1 hour of clerical labor (at a cost of \$33.67 per hour) to prepare the notice using the Federal standard notice (or a standard notice provided by their State) and 0.5 hours for a senior manager (at a cost of \$75.34 per hour) to review the notice template. We also estimate that it will take a computer programmer 3 hours (at a cost of \$52.53 per hour) to write and test a program to automate the notices. The total annual burden for each issuer to prepare the template will be 4.5 hours with an equivalent cost of approximately \$229. For all 2,641 issuers in the individual market, the total annual burden will be 11,885 hours with an equivalent cost of approximately \$604,594.

For issuers in the small group market, we estimate that it will require 3 hours of clerical labor (at a cost of \$33.67 per hour) to prepare the notice using the Federal standard notice (or any forms of the notice otherwise permitted by applicable laws and regulations) and 1 hour for a senior manager (at a cost of \$75.34 per hour) to review the notice template. We also estimate that it will take a computer programmer 8 hours (at a cost of \$52.53 per hour) to write and test a program to automate the notices. The total annual burden for each issuer to prepare the template will be 12 hours with an equivalent cost of approximately \$597. For all 1,288 issuers in the small group market, the total annual burden will be 15,456 hours with an equivalent cost of approximately \$768,393.

Table 12.3 Estimated Annualized Burden for Discontinuance Notices for Issuers Outside the Marketplace

Respondent	Type of Notice	Number of respondents	Number of notices per respondent	Burden per notice (Hours)	Cost per notice	Total burden for all respondents	Total Cost for all respondents
Issuer in Individual Market	Discontinuance notice with re-enrollment	2,641	1	8	\$405.32	21,128	\$1,070,460.68
Issuer in Individual Market	Discontinuance notice without re-enrollment	2,641	1	4.5	\$228.93	11,885	\$604,594.23
Issuer in Small Group Market	Discontinuance Notice	1,288	1	12	\$596.58	15,456	\$768,393.11
Total		2,945				48,469	\$2,443,448.02

Individual market QHP issuers, including issuers that are discontinuing a product offered through the Marketplace and automatically enrolling an enrollee in a QHP under a different product offered by the same QHP issuer through the Marketplace, will need to include some additional information in their notices and therefore will incur a higher burden. We estimate that, for the notice when the issuer is automatically reenrolling the enrollee in another plan, it will require 2 hours of clerical labor (at a cost of \$33.67 per hour) to prepare the notice using the Federal standard notice (or a standard notice provided by their State) and 1 hour for a senior manager (at a cost of \$75.34 per hour) to review the notice template. We also estimate that it will take a computer programmer 6 hours (at a cost of \$52.53 per hour) to write and test a program to automate the notices. The total annual burden for each issuer to prepare the template will be 9 hours with an equivalent cost of approximately \$458. For all 575 QHP issuers, the total annual burden will be 5,175 hours with an equivalent cost of approximately \$263,265.

We estimate that, for the notice when the issuer is not automatically reenrolling the enrollee in another plan, it will require 1 hour of clerical labor (at a cost of \$33.67 per hour) to prepare the notice using the Federal standard notice (or a standard notice provided by their State) and 0.5 hours for a senior manager (at a cost of \$75.34 per hour) to review the notice template. We also estimate that it will take a computer programmer 4 hours (at a cost of \$52.53 per hour) to write and test a program to automate the notices. The total annual burden for each issuer to prepare the template will be 5.5 hours with an equivalent cost of approximately \$281. For all 575 QHP issuers, the total annual burden will be 3,162.5 hours with an equivalent cost of approximately \$161,836.

Table 12.4 Estimated Annualized Burden for Discontinuance (or Re-enrollment) Notices for

Individual Market QHP Issuers

Type of Notice	Number of respondents	Number of notices per respondent	Burden per notice (Hours)	Labor cost per notice	Total burden for all respondents (Hours)	Total cost for all respondents
Discontinuance notice with re-enrollment	575	1	9	\$457.85	5,175	\$263,265.19
Discontinuance notice without re-enrollment	575	1	5.5	\$282.45	3,162.5	\$161,836.48
Total	575				8,337.5	\$425,101.67

13. Capital Costs

Marketplaces and health insurance issuers are expected to maintain copies of notices on file. The retention of copies would fall under normal record retention practices as part of customary and usual business and therefore would have a marginal annual cost.

14. Cost to Federal Government

There are no costs to the Federal government.

15. Changes to Burden

There are no changes in burden.

16. Publication/Tabulation Dates

There are no publication or tabulation dates associated with these ICRs.

17. Expiration Date

There is no expiration date for this collection requirement.

**ATTACHMENTS:
FEDERAL STANDARD RENEWAL AND DISCONTINUATION NOTICES**