

Supporting Statement – Part A
**Annual Eligibility Redetermination, Product Discontinuation and
Renewal Notices (CMS-10527/0938-1254)**

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 former section 2712 and section 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 Eligibility Redeterminations and Re-enrollment for Marketplace Coverage for 2017”¹ contains the procedures that the Secretary is specifying for the coverage year, as noted in (2) above. These procedures will be adopted by the Federally-facilitated Marketplace.

¹ Guidance on Annual Eligibility Redeterminations and Re-enrollment for Marketplace Coverage for 2017 (May 10, 2016). Available at <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/ARR-2017-Guidance-051016-508.pdf>.

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 “Updated Federal Standard Renewal and Product Discontinuation Notices”² provides standard notices to be sent by issuers of individual market QHPs and issuers in the individual market.

States that are enforcing the guaranteed renewability provisions under the Affordable Care Act³ 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.

Issuers in the small group market may use the draft Federal standard small group notices released in the June 26, 2014 bulletin⁴, 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 are expected to include the content described in the September 2, 2014 bulletin⁵ “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.

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.

² Available at <https://www.cms.gov/ccio/>

³ Currently, 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.

⁴ Available at <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Draft-Updated-Federal-Standard-Renewal-and-Product-Discontinuation-Notices-042116.pdf>

⁵ Available at <https://www.cms.gov/ccio/resources/regulations-and-guidance/downloads/renewal-notices-9-3-14-final.pdf>

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 April 21, 2016 (81 FR 25406), providing the public with a 60-day period to submit written comments on these ICRs. Nine comments were received from issuers and other organizations regarding language and data points each would like to see included or removed from the final notices. A number of suggestions resulted in changes being made to the notices (See Appendix A). The information collection requirements are not effective until they have been approved by the Office of Management and Budget.

There was no additional outside consultation regarding the proposed information collection requirements.

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)

To derive average costs, we used data from the Bureau of Labor Statistics' May 2015 National Occupational Employment. Hourly wage rates include the costs of fringe benefits (calculated at 100 percent of salary) and the adjusted hourly wage.

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 Eligibility Redeterminations and Re-enrollment for Marketplace Coverage for 2017”, and adopted by the Federally-facilitated Marketplace. 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 plan sponsors or individuals, as applicable.

The guidance document “Updated Federal Standard Renewal and Product Discontinuation Notices” 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

Each of the standard notices in the September 2, 2014 bulletin has been replaced by simplified forms designed to make the notices shorter, simpler and easier to understand and navigate, and to enable consumers to more readily identify critical consumer actions and deadlines, among other improvements.

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 are expected to include the content described in the September 2, 2014 bulletin “Form and Manner of Notices When Discontinuing or Renewing a Product in the Group or Individual Market”.

States that are enforcing the guaranteed renewability provisions of 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 \$33.84 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 \$112.58 per hour) to review the notice. We also estimate that it will take a computer programmer 16 hours (at a cost of \$81.12 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 \$1,512.02. For all 2,641 issuers in the individual market, the total annual burden will be 52,820 hours with an equivalent cost of approximately \$3.99 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 \$1.94 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	\$1,512.02	52,820	\$3,993,244.82
Issuer in Small Group Market	1,288	1	20	\$1,512.02	25,760	\$1,940,481.76
Total	2,945				78,580	\$5,940,726.58

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 \$33.84 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 \$112.58 per hour) to review the notice. We also estimate that it will take a computer programmer 20 hours (at a cost of \$81.12 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 \$1,837. For all 575 QHP issuers, the total annual burden will be 13,800 hours with an equivalent cost of approximately \$1,055,987.50.

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	\$1,836.50	13,800	\$1,055,987.50

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 September 2, 2014 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 standard discontinuance notices in the September 2, 2014 bulletin has been replaced by simplified forms designed to make the notices shorter, simpler and easier to understand and navigate, and to enable consumers to more readily identify critical consumer actions and deadlines. Issuers in the individual market 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 are expected to include the content described in the September 2, 2014 bulletin.

States that are enforcing the guaranteed renewability provisions of 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 discontinuance notices in the September 2, 2014 bulletin have been replaced by simplified notices designed to make the notices shorter, simpler and easier to understand and navigate, and to enable consumers to more readily identify critical consumer actions and deadlines with no additional 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 \$33.84 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 \$112.58 per hour) to review the notice template. We also estimate that it will take a computer programmer 5 hours (at a cost of \$81.12 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 \$586. For all 2,641 issuers in the individual market, the total annual burden will be 21,128 hours with an equivalent cost of approximately \$1.5 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 \$33.84 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 \$112.58 per hour) to review the notice template. We also estimate that it will take a computer programmer 3 hours (at a cost of \$81.12 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 \$333. For all 2,641 issuers in the individual market, the total annual burden will be 11,885 hours with an equivalent cost of approximately \$880,747.

For issuers in the small group market, we estimate that it will require 3 hours of clerical labor (at a cost of \$33.84 per hour) to prepare the notice using the draft 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 \$112.58 per hour) to review the notice template. We also estimate that it will take a computer programmer 8 hours (at a cost of \$81.12 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 \$863. 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 \$1.1 million.

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	\$585.86	21,128	\$1,547,256.26

Issuer in Individual Market	Discontinuance notice without re-enrollment	2,641	1	4.5	\$333.49	11,885	\$880,747.09
Issuer in Small Group Market	Discontinuance Notice	1,288	1	12	\$863.06	15,456	\$1,111,621.28
Total		2,945				48,469	\$3,539,624.63

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 \$33.84 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 \$112.58 per hour) to review the notice template. We also estimate that it will take a computer programmer 6 hours (at a cost of \$81.12 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 \$667. For all 575 QHP issuers, the total annual burden will be 5,175 hours with an equivalent cost of approximately \$383,513.50.

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 \$33.84 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 \$112.58 per hour) to review the notice template. We also estimate that it will take a computer programmer 4 hours (at a cost of \$81.12 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 \$415. For all 575 QHP issuers, the total annual burden will be 3,162.5 hours with an equivalent cost of approximately \$238,401.

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	\$666.98	5,175	\$383,513.50

Discontinuance notice without re-enrollment	575	1	5.5	\$414.61	3,162.5	\$238,400.75
Total	575				8,337.5	\$621,914.25

Student Health Insurance Coverage

With respect to notices that are required to be provided for student health insurance coverage in connection with a renewal or product discontinuation effective after January 1, 2018 (that is, beginning with notices required to be provided in connection with the 2018-2019 academic year), the issuer’s requirement to provide the notice to student enrollees and their covered dependents generally will be considered satisfied if it ensures that another party (e.g., the institution of higher education) provides a timely and complete notice to the student. We believe that issuers will make arrangements with the institutions of higher education to notify students and their covered dependents of these changes. Since institutions of higher education routinely communicate with students about their health coverage options, it is expected that any additional burden will be negligible.

Transfer of Products to a Related Issuer

In the HHS Notice of Benefit and Payment Parameters for 2018 proposed rule, CMS proposed that a product would be considered to be the same product under CMS regulations when offered by a different issuer within the issuer’s controlled group, provided any changes to the product otherwise meet the standards for uniform modification of coverage. This interpretation considers the product offered by the acquiring issuer in the controlled group to be the same as the product previously offered by the current issuer, thus the issuer of the coverage at the time notice must be provided (whether the current issuer or the acquiring issuer) would be required to provide a renewal notice using the applicable Federal standard renewal notice. This could result in the burden associated with the notification requirement being transferred to the acquiring issuer, but is not expected to result in new burden.

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

Based on CMS’s experience communicating with consumers in the Marketplaces, the guidance document “Updated Federal Standard Renewal and Product Discontinuation Notices” has made substantial changes to the renewal and discontinuation notices. The updates are designed to make

the notices shorter, simpler and easier to understand and navigate, and to enable consumers to more readily identify critical consumer actions and deadlines. The notices also highlight the individual shared responsibility provision to encourage individuals to maintain coverage when their coverage is non-renewed or terminated; explain that their amount of advance payments of the premium tax credit (APTC) may change and that in some cases consumers may be informed of their actual monthly payment in their bill in the following coverage year; encourage consumers to report life changes to the Marketplace; and more clearly describe how consumers can get assistance in non-English languages, consistent with Marketplace notices.

The new notices, while shorter and easier to understand, require the addition of a number of new content elements; including informing consumers that they may not be able to switch to a Marketplace plan during the upcoming year regardless of financial changes, clarifying that estimated premiums are based on current information, an enrollee's current monthly premium, specifying deadlines for the first premium payment for the upcoming year, identifying the enrollee's broker or agent as a source of assistance, the amount of potential tax penalty under the individual shared responsibility provision, and that any excess APTC is not owed to the issuer. Although changes are being made to the renewal and discontinuation notices, the currently approved ICR provides burden estimates issuers would have incurred to develop notices. It is believed that the simplifications to the notices will be offset by the addition of new content elements and therefore no net change is expected in the burden hour estimate.

16. Publication/Tabulation Dates

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

17. Expiration Date

The OMB control number and expiration date are displayed on each data collection instrument.

ATTACHMENTS:

APPENDIX A: 60-DAY COMMENTS AND ACTIONS TAKEN

**UPDATED FEDERAL STANDARD RENEWAL AND PRODUCT
DISCONTINUATIONNOTICES IN THE INDIVIDUAL MARKET**

**FEDERAL STANDARD RENEWAL AND PRODUCT DISCONTINUATION
NOTICES IN THE SMALL GROUP MARKET**