

SUPPORTING STATEMENT
Internal Revenue Service
Affordable Care Act Notice Relating to Rescissions
OMB # 1545-2180

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Treasury Decision 9744 contains final regulations regarding grandfathered health plans, preexisting condition exclusions, lifetime and annual dollar limits on benefits, rescissions, coverage of dependent children to age 26, internal claims and appeal and external review processes, and patient protections under the Affordable Care Act.

The Public Health Service Act (PHS) Act section 2712, as added by the Affordable Care Act, provides that a group health plan or health insurance issuer offering group or individual health insurance coverage must not rescind coverage unless a covered individual commits fraud or makes an intentional misrepresentation of material fact. This standard applies to all rescissions, whether in the group or individual insurance market, or self-insured coverage. The collections under this approval number relate to standards for rescission, including that the rules of PHS Act section 2712 apply whether the coverage is rescinded for an individual or a group.

2. USE OF DATA

This is a third party disclosure requirement required under PHS Act 2712. Individuals whose coverage is about to be rescinded may need to arrange for other coverage, make decisions about whether they wish to appeal the plan's or issuer's decision to rescind their coverage, or make arrangements to defer the receipt of medical care that is either optional or not needed immediately. Individuals receiving the disclosure may make an informed decision on these matters rather than being caught off-guard.

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.

4. EFFORTS TO IDENTIFY DUPLICATION

The information obtained through this collection is unique and is not already available for use or adaptation from another source.

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

There are no small entities affected by this collection.

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

Failure to collect the information will prevent taxpayers from properly complying and/or reporting with the requirements outlined in section 9833 of the Code.

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

There are no special circumstances requiring data collection to be inconsistent with Guidelines in 5 CFR 1320.5(d)(2).

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 of Labor (DOL), Health and Human Services (HHS) and the Treasury (collectively, the Departments) have issued regulations implementing the revised PHS Act sections 2701 through 2719A in several phases. Throughout 2010, the Departments issued interim final regulations (or temporary and proposed regulations), with requests for comment, implementing Affordable Care Act section 1251 (preservation of right to maintain existing coverage), and PHS Act sections 2704 (prohibition of preexisting condition exclusions), 2711 (prohibition on lifetime or annual limits), 2712 (prohibition on rescissions), 2714 (extension of dependent coverage), 2719 (internal claims and appeals and external review process), and 2719A (patient protections) (collectively, the 2010 interim final regulations). After consideration of comments in response to the 2010 interim final regulations, the Departments issued these final regulations, outlined in TD 9744, July 14, 2015, (80 F.R. 40661).

We received no comments during the comment period in response to the **Federal Register** Notice dated March 1, 2017 (82 FR 12281).

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

No payment or gift has been provided to any respondents.

10. **ASSURANCE OF CONFIDENTIALITY OF RESPONSES**

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

11. **JUSTIFICATION OF SENSITIVE QUESTIONS**

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the "Business Master File (BMF)" system and a Privacy Act System of Records notice (SORN) has been issued for this system under IRS 24.046-Customer Account Data Engine Business Master File. The Department of Treasury PIAs can be found at <http://www.treasury.gov/privacy/PIAs/Pages/default.aspx>.

Title 26 USC 6109 requires inclusion of identifying numbers in returns, statements, or other

documents for securing proper identification of persons required to make such returns, statements, or documents and is the authority for social security numbers (SSNs) in IRS systems.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The burden associated with the information collection is reported as shared burden between Internal Revenue Service (IRS) and Department of Labor (DOL). The burden is computed by a DOL Economist and each agency reports half of the burden associated with T.D. 9744. The paragraph below addressed the IRS portion of the burden and the table itemizes the burden associated with collections from both agencies.

The Department assumes that rescissions are rare in the group market and that small group health plans primarily are affected by rescissions. The Department is not aware of a data source on the number of group plans whose policy is rescinded; therefore, the Departments assume that 100 group health plan policies are rescinded in a year, and these plans are the respondents for the ICR. The Department estimates that there is an average of 15.33 participants in small, insured group health plans.

OMB Collection	Authority	Description	Annual Responses	Hours per Response	Total Burden
IRS 1545-2180	T.D. 9744	ACA Rescission	1533	.0130	20
	IRS TOTAL		1533	.0130	20

Please continue to assign OMB number 1545-2180 to this regulation.
54.9815-2712

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

Based on the foregoing, the Department estimates that approximately 1,500 policies are rescinded during a year, which would result in 1,500 advance rescission notices (responses) being sent to affected participants with 38 percent transmitted electronically and 62 percent mailed. The Department estimates that the cost burden associated with distributing the 950 paper notices will be approximately \$500 (1,500*62%*(\$0.49+ \$0.05)). The Department of Labor shares the cost burden of this information collection equally with the Department of Treasury; therefore, the cost burden allocated to the Department of Labor is \$250.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There is no estimated annualized cost to the federal government.

15. REASONS FOR CHANGE IN BURDEN

The final regulations do not change the information collections contained in the 2010 interim final regulations. The estimates have been updated to reflect more current per-plan

participation counts and current wage and postage rates.

There is a change in estimate in the paperwork burden previously approved by OMB.

	Requested	Program Change Due to New Statute	Program Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate	Change Due to Potential Violation of the PRA	Previously Approved
Annual Number of Responses	1,533	0	0	733	0	800
Annual Time Burden (Hr)	20	0	0	-5	0	25
Annual Cost Burden (\$)	250	0	0	250	0	0

We are making this submission to renew the OMB approval.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis and publication.

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 the OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions to the certification statement.

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.