

SUPPORTING STATEMENT
Internal Revenue Service
OMB 1545-2182
TD 9494

**Patient Protection and Affordable Care Act Internal Claims and Appeals and
External review Disclosures.**

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 2719 of the Public Health Service Act, incorporated into Code section 9815 by section 1563(f) of the Patient Protection and Affordable Care Act, Public Law 111-148, requires group health plans and issuers of group health insurance coverage, in connection with internal appeals of claims denials, to provide claimants free of charge with any evidence relied upon in deciding the appeal that was not relied on in making the initial denial of the claim.

2. USE OF DATA

This is a third party disclosure requirement. Individuals appealing a denial of a claim should be able to respond to any new evidence the plan or issuer relies on in the appeal, and this disclosure requirement is essential so that the claimant knows of the new evidence.

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 regulations provide that the satisfaction of this obligation 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

The regulations provide that disclosure by either the plan or the issuer will satisfy the obligation for both parties responsible for the disclosure. 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 disclosure obligation on behalf of both the plan and the issuer.

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

The information collection requirements arise in connection with the occurrence of individual claims for benefits and consist of third-party notices and disclosures. No information is reported to the Federal government. Every claim event is normally of importance to the specific participant

who relies on an employee benefit plan to provide the promised benefit. The information collection provisions of the regulation ensure that sufficient information is provided to: a) participants and beneficiaries so that they may fully exercise their rights under their employee benefit plans, and b) to fiduciaries responsible for operating plans in accordance with their terms.

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

In response to the **Federal Register** Notice dated October 12, 2017, (82 FR 47607), we received no comments during the comment period regarding Reg-125592-10/TD 9494.

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

There has been no payments or gifts provided to 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

This information collection does not collect PII.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Numbers provided in the narrative are rounded.

The Departments estimate that there are approximately 1,769,264 Group health covered plans that are required to respond 278,413 times. The Departments estimate that there are an estimated 1.3 external appeals for every 10,000 participants, and that there will be approximately 8,360 external appeals annually. Experience from North Carolina indicates that about 75 percent of requests for external appeals are actually eligible to proceed to an external review, therefore it is expected that there will be about 11,070 (8,360/0.75) requests for appeals.

Once an eligibility determination is made, plans must provide the IRO with all documentation and other information considered in making an adverse benefit determination. For the 8,360 verified requests for external the hour burden is estimated as **700 hours** (8,360* 5 minutes).

The hour burden related to the preliminary review by plans of the request for external review is estimated to be **2,770 hours** (11,070*0.25 hours) . It is estimated that it will require an average of 15 minutes for each of the requests, for a plan to make an eligibility determination. Plans will already have conducted internal reviews for eligible claimants; therefore, the required information for plans to make this determination should be readily available. Added to the burden hours for claims and appeals estimated at **1,000 hours** annually This leads to an hour burden of 3,470 hours related to external reviews.

External appeals	8, 360 x.08 (5 minutes)	=	700 hours
Claims and Appeals		=	1,000 hours
Grandfathered,	11,070 x .25 (15 minutes)	=	<u>2,770 hours</u>
Total			4,770 hours (rounding differences)

In Summary, the burden associated with claims, appeals, and external review is 4,542 hours annually for 556,826 respondents. Because the burden is shared equally between the Department of Labor and the Department of the Treasury, the Department of Treasury's share is 2,271 hours.

Authority	Description	Respondent s	# of responses per Respondent	Annual Responses	Hours per Response	Total Burden
Public Law 111-148	Affordable Care Act Internal Claims and Appeals and External review Disclosures.	1,769,264	0.1573603	278,413	.5 minute	2,271
Totals				278,413		2,271

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

In total, the cost burden associated with claims, appeals, language translation, and external review is approximately \$2.3 million annually. Because the burden is shared equally between the Department of Labor and the Department of the Treasury, the Department of Treasury's share is approximately \$1.1 million annually. The numbers provided in the narrative are rounded. The actual cost attributed to the Internal Revenue Service is \$1,143,236.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is

complete, IRS will update this information collection to reflect a more precise estimate of burden and costs. IRS has estimated the printing costs to be \$26,000.

15. REASONS FOR CHANGE IN BURDEN

In Summary, the burden associated with claims, appeals, and external review is 4,542 hours annually for 556,826 respondents. Because the burden is shared equally between the Department of Labor and the Department of the Treasury, the Department of Treasury’s share is 2,271 hours and 278,412 respondents. This is an increase of 1,921 hours annually and 216,412 respondents. Department of Labor provides the estimates and the estimates for the collection have changed since the last renewal.

Because the final rule does not change the information collection requirements contained interim final regulations (and June 2011 amendment), most of the burden increase results from an increase in the number of non-grandfathered group health plans subject to the requirements of this information collection. A small portion also results from increases in wage rates and increases in postage rates.

	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	278,412	0	0	216,412	0	62,000
Annual Time Burden (Hr)	2,271	0	0	1,921	0	350

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

IRS believes that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the form or 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.