

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, 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 an Exchange 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 Exchange and approved by the Secretary.

The guidance document “Guidance on Annual Eligibility Redetermination and Re-enrollment for Exchange Coverage for 2019 and Later Years”¹ contains the procedures that the Secretary is specifying for benefit year 2019 and beyond, unless otherwise specified, as noted in (2) above. These procedures will be adopted by the Federally-facilitated Exchange.

The final rule also amends the requirements for product renewal and re-enrollment (or

¹ Guidance on Annual Eligibility Redetermination and Re-enrollment for Exchange Coverage for 2019 and Later Years (July 6, 2018), available at: <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/2019-Enrollment-ARR-Guidance.pdf>.

discontinuance) notices to be sent by QHP issuers in the individual market Exchanges and specifies content for these notices. The 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.”

We are proposing nonsubstantive changes in this information collection to the standard notices for renewal and re-enrollment in QHPs through Exchanges. The changes are limited to adding clarifications in the static text of attachments 2 and 4 to ensure consumers understand that information about their monthly payment and amount of financial help is estimated based on current information and actual amounts could be different depending on a number of factors, such as cost changes in the enrollee’s area and changes in household income and family size.

We recognize that issuers will need time to incorporate the changes to these notices. Therefore, it is expected that issuers would be allowed to use the existing notices pending further guidance.

2. Information Users

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

3. Use of Information Technology

² Updated Federal Standard Renewal and Product Discontinuation Notices (July 19, 2018), available at: <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Updtd-Standard-Renewal-Product-Discontinuation-Notices.pdf>.

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>

Exchanges and issuers may provide notices electronically.

4. Duplication of Efforts

Exchanges 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 will 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

Not applicable since we are requesting approval of a nonsubstantive change.

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 2017

Occupational Employment Statistics⁶. Hourly labor rates include the costs of fringe benefits and overhead (calculated at 100 percent of mean hourly wage).

Table 12.1 Adjusted Hourly Wages Used in Burden Estimates

Occupation Title	Occupational Code	Mean Hourly Wage (\$/hour)	Fringe Benefits and Overhead (\$/hour)	Adjusted Hourly Wage (\$/hour)
Secretaries and Administrative Assistants, Except Legal, Medical, and Executive	43-6014	\$17.75	\$17.75	\$35.50
Operations Manager	11-1021	\$59.35	\$59.35	\$118.70
Computer Programmer	15-1131	\$42.08	\$42.08	\$84.16

Annual Redetermination Notices

The final rule provides that an Exchange 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 “Updated Federal Standard Renewal and Product Discontinuation Notices”, and adopted by the Federally-facilitated Exchange. The third option for a State-based Exchange is to utilize alternative procedures approved by the Secretary based on a showing by the Exchange that such procedures meet specified criteria. We anticipate that fewer than 10 State-based Exchanges 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 Exchanges, 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 Exchange
- Renewal notice for the individual market where coverage is being renewed in a QHP offered under the same product through the Exchange

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

⁶ Available at https://www.bls.gov/oes/current/oes_stru.htm.

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 1,682 issuers in the individual market, including 244 QHP issuers, and 821 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 1,805 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 Exchange and small group market, we estimate that it will require 3 hours for an administrative assistant (at a cost of \$35.50 per hour) to prepare the notice using the Federal standard notice (or a standard notice provided by their State) and 1 hour for an operations manager (at a cost of \$118.70 per hour) to review the notice. We also estimate that it will take a computer programmer 16 hours (at a cost of \$84.16 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 \$1,572. For all 1,682 issuers in the individual market, the total annual burden will be 33,640 hours with an equivalent cost of approximately \$2.6 million. For all 821 issuers in the small group market, the total annual burden will be 16,420 hours with an equivalent cost of \$1.3 million.

Table 12.2 Estimated Annualized Burden for Renewal Notices for Issuers outside the Exchange

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	1,682	1	20	\$1,571.76	33,640	\$ 2,643,700
Issuer in Small Group Market	821	1	20	\$1,571.76	16,420	\$ 1,290,415
Total	1,805				50,060	\$3,934,115

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 for an administrative assistant (at a cost of \$35.50 per hour) to prepare the notice using the Federal standard notice (or a standard notice provided by their State) and 1 hour for a manager (at a cost of \$118.70 per hour) to review the notice. We also

estimate that it will take a computer programmer 20 hours (at a cost of \$84.16 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 \$1,908. For all 244 QHP issuers, the total annual burden will be 5,856 hours with an equivalent cost of approximately \$465,650.

Table 12.3 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
244	1	24	\$1,908.40	5,856	\$465,650

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 Exchange and automatically enrolling an enrollee in a QHP under a different product offered by the same QHP issuer through the Exchange, is required to send a notice to enrollees.

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 Exchange and the issuer is automatically enrolling the enrollee in a different plan
- Notice for the individual market where coverage was in a QHP offered through the Exchange and the issuer is automatically enrolling the enrollee in a different product
- Discontinuation notice for the individual market outside the Exchange and the issuer is not automatically enrolling the enrollee in a different plan
- Discontinuation notice for the individual market where coverage being discontinued was in a QHP offered through the Exchange and the issuer is not automatically enrolling the enrollee in a different 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 1,682 issuers in the individual market, and 821 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 1,805 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 Exchange, we estimate that, for the notice when the issuer is automatically reenrolling the enrollee in another plan, it will require 2 hours for an administrative assistant (at a cost of \$35.50 per hour) to prepare the notice using the Federal standard notice (or a standard notice provided by their State) and 1 hour for a manager (at a cost of \$118.70 per hour) to review the notice template. We also estimate that it will take a computer programmer 5 hours (at a cost of \$84.16 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 \$611. For all 1,682 issuers in the individual market, the total annual burden will be 13,456 hours with an equivalent cost of approximately \$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 for an administrative assistant (at a cost of \$35.50 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 manager (at a cost of \$118.70 per hour) to review the notice template. We also estimate that it will take a computer programmer 3 hours (at a cost of \$84.16 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 \$347. For all 1,682 issuers in the individual market, the total annual burden will be 7,569 hours with an equivalent cost of approximately \$584,209.

For issuers in the small group market, we estimate that it will require 3 hours for an administrative assistant (at a cost of \$35.50 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 manager (at a cost of \$118.70 per hour) to review the notice template. We also estimate that it will take a computer programmer 8 hours (at a cost of \$84.16 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 \$898. For all 821 issuers in the small group market, the total annual burden will be 9,852 hours with an equivalent cost of approximately \$737,652.

Table 12.4 Estimated Annualized Burden for Discontinuance Notices for Issuers outside the Exchange

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	1,682	1	8	\$610.50	13,456	\$1,026,861
Issuer in Individual Market	Discontinuance notice without re-enrollment	1,682	1	4.5	\$347.33	7,569	\$584,209
Issuer in Small Group Market	Discontinuance Notice	821	1	12	\$898.48	9,852	\$737,652
Total		1,805				30,877	\$2,348,722

Individual market QHP issuers, including issuers that are discontinuing a product offered through the Exchange and automatically enrolling an enrollee in a QHP under a different product offered by the same QHP issuer through the Exchange, 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 for an administrative assistant (at a cost of \$35.50 per hour) to prepare the notice using the Federal standard notice (or a standard notice provided by their State) and 1 hour for a manager (at a cost of \$118.70 per hour) to review the notice template. We also estimate that it will take a computer programmer 6 hours (at a cost of \$84.16 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 \$695. For all 244 QHP issuers, the total annual burden will be 2,196 hours with an equivalent cost of approximately \$169,497.

We estimate that, for the notice when the issuer is not automatically reenrolling the enrollee in another plan, it will require 1 hour for an administrative assistant (at a cost of \$35.50 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 manager (at a cost of \$118.70 per hour) to review the notice template. We also estimate that it will take a computer programmer 4 hours (at a cost of \$84.16 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 \$431. For all 244 QHP issuers, the total annual burden will be 1342 hours with an equivalent cost of approximately \$105,284.

Table 12.5 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	244	1	9	\$694.66	2,196	\$169,497
Discontinuance notice without re-enrollment	244	1	5.5	\$431.49	1,342	\$105,284
Total	244				3,538	\$274,781

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 final rule, CMS required that a product will 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) will be required to provide a renewal notice using the applicable Federal standard renewal notice. This can 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

Exchanges 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

We are proposing nonsubstantive changes to the ICRs. The changes are limited to adding clarifying language and will not affect burden.

There is a reduction in burden due to a decrease in the estimated number of issuers who are subject to these requirements. For QHP issuers, the total burden for renewal notices has been reduced by 7,944 hours (from 13,800 hours to 5,856 hours) and the total burden for discontinuation notices has been reduced by 4,799.5 hours (from 8,337.5 hours to 3,538 hours). For issuers outside the Exchange, the total burden for renewal notices has been reduced by 28,520 hours (from 78,580 hours to 50,060 hours) and the total burden for discontinuation notices has been reduced by 17,592 hours (from 48,469 hours to 30,877 hours). The total burden was reduced by 58,856 hours.

16. Publication/Tabulation Dates

There are no plans to publish the outcome of the data collection.

17. Expiration Date

The expiration date will be displayed on the first page of each instrument (top, right-hand corner).

ATTACHMENTS:

**UPDATED FEDERAL STANDARD RENEWAL AND PRODUCT
DISCONTINUATION NOTICES IN THE INDIVIDUAL MARKET**

**JULY 2018 GUIDANCE ON FEDERAL STANDARD RENEWAL AND PRODUCT
DISCONTINUATION NOTICES IN THE INDIVIDUAL MARKET**

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