

DATE: August 3, 2020

TO: Paul Ray
Administrator, OIRA

FROM: Randy Pate
Director, CCHIO

SUBJECT: Request for Emergency Clearance of the Paperwork Reduction Act Package for
Collection of Premium Credit Adjustment Data Related to COVID-19 Emergency

Emergency Justification

The Centers for Medicare & Medicaid Services (CMS) is requesting that an information collection requirement associated with the Temporary Policy on 2020 Premium Credits Associated with the COVID-19 Public Health Emergency be processed in accordance with the implementing regulations of the Paperwork Reduction Act of 1995 at 5 CFR 1320.13(a)(2)(i). CMS will be unable to update CMS systems for IRS reporting purposes in time for tax season if the normal, non-emergency clearance procedures are followed.

Specifically, we are requesting emergency approval for information collection requirements (ICRs) related to enrollment reconciliation (45 CFR 155.400(d) and 156.265(f)). In accordance with 5 CFR 1320.13(a)(2)(i), we believe that public harm is reasonably likely to ensue if the normal clearance procedures are followed. The use of normal clearance procedures will not allow CMS to update its enrollment data timely and is therefore is reasonably likely to prevent accurate and timely distribution of 1095-A tax forms to affected consumers. Health Insurance Exchanges furnish Form 1095-A to individuals to allow them to reconcile the credit on their returns with advance payments of the premium tax credit (APTC) and file an accurate tax return.

Background

CMS currently has authority under CMS-10592/OMB Control No. 0938-1341 to collect enrollment reconciliation data from QHP issuers. At least monthly, QHP issuers and the FFE exchange enrollment and financial data files to verify the integrity of the enrollment transaction processing and resulting records. Issuers generally are not permitted under federal law and regulations to reduce premiums that are otherwise due. However, in light of the urgent need to help individuals and small employers experiencing economic hardship maintain continuous coverage through the COVID-19 public health emergency, CMS will adopt a policy of relaxed enforcement with respect to 45 CFR 147.102, 155.200(f)(4), 155.400(e) and (g), 155.706(b)(6) (1)(A), 156.80(d), 156.210(a), and 156.286(a)(2)–(4) to allow issuers, on a temporary basis, to offer premium credits for 2020 coverage.

CMS and issuers using the Federal platform must update data in CMS systems by December 2020 in order to be correct for the first extract to produce 1095-A tax forms. Issuers must notify CMS of premium credits at least 90 days before the data extract to give CMS time to

operationally process the data, meaning issuers must provide the template to CMS by September 1, 2020. Then, CMS must run a special data clean-up to correct total premium amount, and thereby APTC data reflected in the Form 1095-A, and then validate the clean-up. If CMS does not provide enrollees with accurate 1095-A forms, enrollees are at risk of receiving late corrected tax forms and having to refile their taxes.

Timeline

August 3, 2020

- Emergency Information Collection Requirement formally submitted to OMB.

August 7, 2020

- OMB approval received.

August 2020-September 1, 2020

- Issuers prepare the premium credit template.

August 10, 2020

- 10-day FR notice submitted to the Office of the Federal Register (OFR) for publication.

August 11, 2020

- Target publication date for 10-day FR notice to initiate standard OMB approval process.
- Start of the 10-day public comment period.
- PRA package posted for public review on the CMS PRA web site.

August 21, 2019

- End of 10-day comment period.
- CMS reviews and responds to comments, as needed.
- PRA package revised as needed.

October 1, 2020

- Issuers offering a premium credit must provide CMS the premium credit template with contact information, HIOS ID, the premium credit reduction percent, confirmation of state approval, and start and end dates.