

**SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT OF 1995:
NOTICE FOR HEALTH REIMBURSEMENT ARRANGEMENTS INTEGRATED
WITH INDIVIDUAL HEALTH INSURANCE COVERAGE**

This ICR seeks approval for a revision of an existing control number.

A. JUSTIFICATION

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

On October 12, 2017, President Trump issued Executive Order 13813¹, “Promoting Healthcare Choice and Competition Across the United States.” The executive order states, in part, that the “Administration will prioritize three areas for improvement in the near term: association health plans (AHPs), short-term, limited-duration insurance (STLDI), and health reimbursement arrangements (HRAs).” With regard to HRAs, the Executive Order directed the Secretaries of the Treasury, Labor, and HHS to “consider proposing regulations or revising guidance, to the extent permitted by law and supported by sound policy, to increase usability of HRAs, to expand employers’ ability to offer HRAs to their employees, and to allow HRAs to be used in conjunction with nongroup coverage.” The executive order further provided that expanding “the flexibility and use of HRAs would provide many Americans, including employees who work at small businesses, with more options for financing their healthcare.” The final regulations have been developed in response to this executive order.² On January 28, 2021, the Executive Order was revoked by Executive Order 14009³, “Strengthening Medicaid and the Affordable Care Act,” however; the regulations are still in effect.⁴

The final rules remove the prohibition on integrating HRAs with individual health insurance coverage, if certain conditions are met. The final rules also set forth conditions under which certain HRAs are as limited excepted benefits. In addition, the Treasury

¹ 82 FR 48385 (Oct. 17, 2017).

² In response to Executive Order 13813, on June 21, 2018, DOL published the Definition of Employer under Section 3(5) of ERISA – Association Health Plans final rule and on August 3, 2018, DOL, HHS and the Treasury Department published the Short-Term, Limited-Duration Insurance final rule. See the Association Health Plan final rule at 83 FR 28912 and the Short-Term, Limited-Duration Insurance final rule at 83 FR 38212 and Health Reimbursement Arrangements and Other Account-Based Group Health Plans final rule at 84 FR 28888 (June 20, 2019).

³ 86 FR 7793 (Jan. 28, 2021).

⁴ The Department of Labor regulations at 29 CFR 2510.3-1, 29 CFR 2590.701-2, 29 CFR 2590.702-2, and 29 CFR 2590.715-2711 are adopted pursuant to the authority contained in 29 U.S.C. 1002, 1135, 1182, 1185d, 1191a, 1191b, and 1191c; Secretary of Labor’s Order 1–2011, 77 FR 1088 (Jan. 9, 2012).

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Department and the IRS finalized rules regarding premium tax credit (PTC) eligibility for individuals offered coverage under an HRA integrated with individual health insurance coverage, and DOL finalized a safe harbor to provide HRA plan sponsors with assurance that the individual health insurance coverage that is integrated with an HRA would not become part of an ERISA plan if the conditions of the safe harbor are met. Finally, HHS finalized rules that provide a special enrollment period in the individual market for individuals who gain access to an HRA that is integrated with individual health insurance coverage or who are provided a qualified small employer health reimbursement arrangement (QSEHRA).

As discussed in more detail in Item 2., below, the ICRs are needed to notify the HRA that participants are enrolled in individual health insurance coverage, to help individuals understand the impact of enrolling in an HRA on their eligibility for the PTC, and that coverage is not subject to the rules and consumer protections of the Employee Retirement Income Security Act (ERISA).

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The following five Information Collections are contained in the final rules: (1) Verification of Enrollment in Individual Coverage; (2) HRA Notice to Participants; (3) Notice to Participants that Individual Policy is not Subject to Title I of ERISA; 4) Participant Notification of Individual Coverage HRA of Cancelled or Discontinued Coverage; 5) Notice for Excepted Benefit HRAs. These are described below.

1) Verification of Enrollment in Individual Coverage

The HRA must implement and comply with reasonable procedures to verify that participants and beneficiaries are enrolled in individual insurance coverage for that year. This requirement can be satisfied by providing a document from a third party, like an insurance issuer, verifying coverage. An alternative procedure requires participants to provide an attestation of coverage, including the date coverage begins and the provider of the coverage.

2) HRA Notice to Participants

Because HRAs are different from traditional employer-provided health coverage in many respects, the Departments are concerned that individuals eligible for HRAs integrated with individual health insurance coverage may not recognize that the offer and/or acceptance of an HRA will have consequences for premium tax credit (PTC) eligibility.

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Therefore, in order to ensure that participants who are eligible to participate in an HRA integrated with individual health insurance coverage understand the potential effect that the offer of and enrollment in the HRA might have on their ability to claim the PTC, these final regulations include a requirement that an HRA provide written notice to eligible participants. The HRA sponsor would be required to provide a written notice to each participant at least 90 days before the beginning of each plan year. For participants who are not yet eligible to participate at the beginning of the plan year (or who are not eligible when the notice is provided at least 90 days prior to the beginning of the plan year), the HRA must provide the notice no later than the date on which the participant is first eligible to participate in the HRA.

The written notice must include certain relevant information, including among other things, a description of the terms of the HRA, including the contribution amount used in the affordability determination under the Code section 36B final regulations⁵; a statement of the right of the participant to opt-out of and waive future reimbursement under the HRA; a description of the PTC eligibility consequences for a participant who opts out of the HRA; and a description of the PTC eligibility consequences for a participant who accepts the HRA.

The written notice must include the information required by the final regulations, and may include other information, as long as the additional information does not conflict with the required information. The written notice does not need to include information specific to a participant. For example, it would be sufficient under the final rule for the notice to include a description of the terms of the HRA that would allow a participant to determine the amounts newly made available under the HRA, which are needed for the participant to determine affordability under the final rules at 26 CFR 1.36B-2(c)(5). The final regulations do not require the HRA to include in the notice a determination of whether the HRA is considered affordable for the participant.

3) Notice to Participants that Individual Policy is not subject to title I of ERISA.

If certain conditions are met individual health insurance coverage is not considered an “employee welfare benefit plan” with the consumer protections provided under ERISA. The final rule require HRAs plan sponsors to notify participant of this fact. For an HRA sponsor, this notice requirement is met if annually the notice requirements in section 2590.702-2(c)(6) are met. These notice requirements are part of the HRA notice to Participants. For QSEHRAs this notice requirement is met if the plan sponsor annually, includes language provided in the rule in the Summary Plan Description.

⁵ The Departments note that in order to comply with the notice requirement, the HRA must determine the amounts that will be newly made available for the plan year prior the plan year. A similar requirement applies under the premium tax credit regulations.

4) Participant Notification of Individual Coverage HRA of Cancelled or Discontinued Coverage

The final rules require that if the covered individual fails to pay the applicable premium(s) by the end of the grace period and the coverage is cancelled or discontinued, including retroactively, or if individual health insurance coverage is cancelled or discontinued retroactively for some other reason (for example, a rescission), the individual coverage HRA must require that the individual notify the HRA that coverage has been cancelled or discontinued and the date on which the coverage cancellation or discontinuance is effective (54.9801-4(c)(1)(iii)).

5) Notice for Excepted Benefit HRAs

In response to commenters' concerns, the final rules impose a notice requirement with respect to excepted benefit HRAs sponsored by non-federal governmental plans. Such an excepted benefit HRA must provide a notice that states conditions pertaining to eligibility to receive benefits, annual or lifetime caps or other limits on benefits under the excepted benefit HRA, and a description of or summary of the benefits consistent with the content and timing of DOL's SPD requirements.

For private-sector, employment-based plans, other notice requirements under Part I of ERISA already apply. For example, excepted benefit HRAs that are ERISA-covered plans must provide a summary plan description (SPD), summaries of material modifications (SMM), and summaries of material reductions in covered services or benefits.⁶ The excepted benefit HRA's SPD must include, for example, the conditions pertaining to eligibility to receive benefits; a description or summary of the benefits; the circumstances that may result in disqualification, ineligibility, or denial, loss, forfeiture, suspension, offset, reduction, or recovery (for example, by exercise of subrogation or reimbursement rights) of any benefits; and the procedures governing claims for benefits under the excepted benefit HRA. Accordingly, for excepted benefit HRAs that are subject to ERISA, the burden for providing information regarding excepted benefit HRAs is captured under the Department's SPD information collection (OMB Control Number 1210-0039), which includes a growth factor for new SPDs and SMMs provided to participants to notify them regarding coverage under new plans and plan amendments.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration for using information technology to reduce burden.

⁶ See 29 CFR 2520.104b-2, 2520.104b-3(a) and (d)(3).

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The regulation does not restrict HRAs from using electronic technology to provide either disclosure. The Department of Labor's regulations under 29 C.F.R. § 2520.104b-1(b) provide that, "where certain material, including reports, statements, and documents, is required under Part I of the Act and this part to be furnished either by direct operation of law or an individual request, the plan administrator shall use measures reasonably calculated to ensure actual receipt of the material by plan participants and beneficiaries." Section 29 CFR 2520.104b-1(c) establishes the manner in which disclosures under Title I of ERISA made through electronic media will be deemed to satisfy the requirement of § 2520.104b-1(b). Section 2520-107-1 establishes standards concerning the use of electronic media for maintenance and retention of records. Under these rules, all pension and welfare plans covered under Title I of ERISA may use electronic media to satisfy disclosure and recordkeeping obligations, subject to specific safeguards.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

This information collection requires that an excepted benefit HRA must provide a notice that states conditions pertaining to eligibility to receive benefits, annual or lifetime caps or other limits on benefits under the excepted benefit HRA, and a description of or summary of the benefits consistent with the content and timing of DOL's SPD requirement. For private-sector, employment-based plans, other notice requirements under Part I of ERISA already apply. For excepted benefit HRAs that are subject to ERISA, the burden for providing information regarding excepted benefit HRAs is captured under the Department's SPD information collection (OMB Control Number 1210-0039), which includes a growth factor for new SPDs and SMMs provided to participants to notify them regarding coverage under new plans and plan amendments. Thus, the information collection does not require duplicative information.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

The purpose of this information collection is to expand the flexibility and use of HRAs for employees who work at small businesses and include more options for financing their healthcare. In addition, Section 29 CFR 2520.104b-1(c) allows for electronic delivery of notices as long as the requirements are met. Also, while specific content is required in the notices, the notices do not require participant specific information.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

If this information collection was conducted less frequently affected individuals would not have the information they need to make an annual selection of a health plan.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- **requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **requiring respondents to submit more than an original and two copies of any document;**
- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**
- **in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**

- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- **requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

None.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and record keeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years -- even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

As required by 5 CFR 1320.8(d), the Department published a Federal Register notice on December 13, 2021 (86 FR 70866) providing the public with 60 days to comment on the information collection. No comments were received.

- 9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

Not applicable.

- 10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

Not applicable.

- 11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

Not applicable.

- 12. Provide estimates of the hour burden of the collection of information. The statement should:**

- Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**

- **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13.**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 13.**

The hour burden associated with the five information collections is discussed below.

1) Verification of Enrollment in Individual Coverage

The HRA must implement and comply with reasonable procedures to verify that participants and beneficiaries are enrolled in individual insurance coverage for that year. This requirement can be satisfied by providing a document from a third party, like an insurance issuer, verifying coverage. An alternative procedure requires participants to provide an attestation of coverage including the date coverage begins and the provider of the coverage.

Documentation, or proof of expenditure of funds, is nearly universal when seeking reimbursement from a HRA. The HRA can require proof of coverage or attestations of coverage when participants seek reimbursement for premiums or other medical expenditures. The additional burden is de minimis, because the attestation can be part of the information already required when seeking reimbursement.

2) HRA Notice to Participants

The final regulation requires an HRA plan sponsor to provide written notice to eligible participants including, among other things, the following information: (1) a description of the terms of the HRA, including the contribution amount used in the affordability determination under the Code section 36B final regulations; (2) a statement of the right of the participant to opt-out of and waive future reimbursement under the HRA; (3) a description of the Premium Tax Credit (PTC) eligibility consequences for a participant who opts out of the HRA; and (4) a description of the PTC eligibility consequences for a participant who accepts the HRA. The written notice may include other information, as long as the additional information does not conflict with the required information. The written notice does not need to include information specific to a participant.

The HRA plan sponsor must provide the written notice to each participant at least 90

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days before the beginning of each plan year. For participants who are not yet eligible to participate at the beginning of the plan year (or who are not eligible when the notice is provided at least 90 days prior to the beginning of the plan year), the HRA plan sponsor must provide the notice no later than the date on which the participant is first eligible to participate in the HRA.

The Departments estimate that a compensation and benefits manager would require 2 hours (at \$121.78 per hour) and a lawyer would require 1 hour (at \$140.96 per hour) to prepare the notice for each HRA plan sponsor. Thus, the total hour burden for each HRA plan sponsor would be 3 hours with an equivalent cost of approximately \$385.

The Departments estimate that 17,810 private employers would switch from traditional health plans to HRAs⁷ or newly offer HRAs in the first year starting in mid-2022 as a result of the final rule. Therefore, the Departments estimate for the total hour burden for these HRA sponsors to prepare the notices for the private-sector employees would be 53,431⁸ hours with an equivalent cost of \$6,848,438.⁹

In the second year and third year, the Departments respectively estimate that 45,114 and 41,407 private employers would be switching from traditional health plans to HRAs or newly offering HRAs. The Departments estimate the hour burden for the second year and third year respectively as 135,341 hours¹⁰ and 124,220 hours¹¹ with an equivalent cost burden of \$17,347,058¹² and \$15,921,748.¹³

Thus, the average annual hour burden estimate to prepare the HRA notice for the first

7 U.S. Department of the Treasury, Office of Tax Analysis used a simulation model to obtain these estimates. For 2022 the model estimated that 18,073 employers would newly offer HRAs and one million individuals would enroll in those HRAs. Based on DOL estimates about 98 percent of these will be in the private market, and the rest will be through public employers like state and local governments. There are on average one dependent for every policy holder. "Health Insurance Coverage Bulletin", Abstract of the Auxiliary Data for the March 2020 Annual Social and Economic Supplement of the Current Population Survey, September 28, 2021.

<https://www.dol.gov/sites/dolgov/files/EBSA/researchers/data/health-and-welfare/health-insurance-coverage-bulletin-2020.pdf>

8 Hour burden = (17,810 employers x 1 hour by legal officer) + (17,810 employers x 2 hours by benefit manager) = (17,810 hours + 35,621 hours) = 53,431 hours.

9 Cost equivalent of total hour burden = (17,810 hours of legal officer x \$140.96 per hour) + (35,621 hours of benefit managers x \$121.78 per hour) = (\$2,510,548 + \$4,337,890) = \$6,848,438.

10 Hour burden = (45,114 employers x 1 hour by legal officer) + (45,114 employers x 2 hours by benefit manager) = (45,114 hours + 90,228 hours) = 135,341 hours.

11 Hour burden = (41,407 employers x 1 hour by legal officer) + (41,407 employers x 2 hours by benefit manager) = (41,407 hours + 82,814 hours) = 124,220 hours.

12 Cost equivalent of total hour burden = (45,114 employers x 1 hour by legal officer x \$140.96 per hour) + (45,114 employers x 2 hours by benefit manager x \$121.78 per hour) = (\$6,359,204 + \$10,987,853) = \$17,347,058

13 Cost equivalent of total hour burden = (41,407 employers x 1 hour by legal officer x \$140.96 per hour) + (41,407 employers x 2 hours by benefit manager x \$121.78 per hour) = (\$5,836,705 + \$10,085,044) = \$15,921,748

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time is 104,331 hours with average annual equivalent cost of \$13,372,415.

TABLE 1.-- Burden to Prepare HRA Notice for the First Time- Private Sector Employers

Activity (year)	Number of Employers Newly Offering HRAs	Legal Cost Per Hour	Number of Hours for Legal	Benefit Manager Cost per Hour	Number of Hours for Benefit Manager	Total Hour Burden	Total Equivalent Cost
(a)	(b)	(c)	(d)=1*(b)	(e)	(f)=2*(b)	(g)=(d)+(f)	(c)*(d)+(e)*(f)
Prepare HRA for private-sector employers (Year 1)	17,810	\$140.96	17,810	\$121.78	35,621	53,431	\$6,848,438
Prepare HRA for private-sector employers (Year 2)	45,114	\$140.96	45,114	\$121.78	90,227	135,341	\$17,347,058
Prepare HRA for private-sector employers (Year 3)	41,407	\$140.96	41,407	\$121.78	82,814	124,220	\$15,921,748
Total Average (mid 2022-mid 2025)	34,777	\$140.96	434,777	\$121.78	69,554	104,331	\$13,372,415

3) Notice to Participants that Individual Policy is not subject to title I of ERISA

If certain conditions are met individual health insurance coverage is not considered an “employee welfare benefit plan” with consumer protections provided under ERISA. HRA plan sponsors are required to notify participant of this fact. For an HRA this notice requirement is met if annually the notice requirements in section 2590.702-2(c)(6) are met, which are part of the HRA notice to Participants. Therefore, this notice requirement imposes no additional burden. For QSEHRAs this notice requirement is met if the plan sponsor annually includes language provided in the rule is include in the Summary Plan Description.. The Department estimates that this burden is de minimis, because the required text is provided by the Department and the required information can be included with other notices. This burden is captured under OMB Control Number 1210-0039.

4) Participant Notification of Individual Coverage HRA of Cancelled or Discontinued Coverage

The final rules require that if the covered individual fails to pay the applicable premium(s) by the end of the grace period and the coverage is cancelled or discontinued, including retroactively, or if individual health insurance coverage is cancelled or discontinued retroactively for some other reason (for example, a rescission), the individual coverage HRA must require that the individual notify the HRA that coverage

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has been cancelled or discontinued and the date on which the coverage cancellation or discontinuance is effective (54.9801-4(c)(1)(iii)). The Departments estimates that 85,753 employees will have individual coverage HRA in the first year, and 302,965 and 502,329 in respectively the second and third year, resulting in a three-year average of 297,016. The Department assumes that 7.8 percent of participants¹⁴ or 23,167 participants¹⁵ will cancel their individual coverage HRA. The Department assumes that it will take five minutes for participants to make a phone call or send an email requesting to cancel their individual coverage HRAs. Thus, the Departments estimate the hour burden in the first year to be 557 hours¹⁶, and 1,969 hours¹⁷ and 3,265 hours¹⁸ in respectively the second year and third year, resulting in a three-year average hour burden of 1,931 hours.

5) Notice for Excepted Benefit HRAs

In response to commenters' concerns, the final rules impose a notice requirement with respect to excepted benefit HRAs sponsored by non-federal governmental plans. Such an excepted benefit HRA must provide a notice that states conditions pertaining to eligibility to receive benefits, annual or lifetime caps or other limits on benefits under the excepted benefit HRA, and a description of or summary of the benefits consistent with the content and timing of DOL's SPD requirements.

For private-sector, employment-based plans, other notice requirements under Part 1 of ERISA already apply. For example, excepted benefit HRAs that are ERISA-covered plans must provide a summary plan description (SPD), summaries of material modifications (SMM), and summaries of material reductions in covered services or benefits.¹⁹ The excepted benefit HRA's SPD must include, for example, the conditions pertaining to eligibility to receive benefits; a description or summary of the benefits; the circumstances that may result in disqualification, ineligibility, or denial, loss, forfeiture, suspension, offset, reduction, or recovery (for example, by exercise of subrogation or reimbursement rights) of any benefits; and the procedures governing claims for benefits under the excepted benefit HRA.

Accordingly, for excepted benefit HRAs that are subject to ERISA, the burden for providing information regarding excepted benefit HRAs is captured under the

¹⁴ HHS estimates that approximately 7.8 percent of enrollees in Exchanges using the Federal platform had their coverage terminated in 2020 for non-payment of premiums (Source: 87 FR 584. "Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2023." January 5, 2022). This estimate is a proxy for the percent of participants that will cancel their individual coverage HRAs.

¹⁵ 297,016 participants x 0.078 = 23,167 participants

¹⁶ Hour burden = 85,753 employees x 0.078 x 5 minutes by individual = 557 hours

¹⁷ Hour burden = 302,965 employees x 0.078 x 5 minutes by individual = 1,969 hours

¹⁸ Hour burden = 502,329 employees x 0.078 x 5 minutes by individual = 3,265 hours

¹⁹ See 29 CFR 2520.104b-2, 2520.104b-3(a) and (d)(3).

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Department’s SPD information collection (OMB Control Number 1210-0039), which includes a growth factor for new SPDs and SMMs provided to participants to notify them regarding coverage under new plans and plan amendments.

6) Summary

The total annual hour burden for this information collection is 106,261 hours with an equivalent cost of \$13,372,415. As the DOL and Treasury share the burden, DOL’s share is 53,131 hours with an equivalent cost of \$6,686,208.

Estimated Annualized Respondent Hour Burden

Activity (year)	No. of Respondents	No. of Responses per Respondent	Total Responses	Average Burden (Hours)	Total Burden (Hours)	Hourly Wage Rate	Equivalent Burden Cost
Prepare HRA for private sector-Legal officer (Year 1)	17,810	1	17,810	1	17,810	\$140.96	\$2,510,548
Prepare HRA for private-sector- Benefit manager (Year 1)	17,810	1	17,810	2	35,620	\$121.78	\$4,337,890
Prepare HRA for private sector-Legal officer (Year 2)	45,114	1	45,114	1	45,114	\$140.96	\$6,359,204
Prepare HRA for private-sector- Benefit manager (Year 2)	45,114	1	45,114	2	90,228	\$121.78	\$10,987,853
Prepare HRA for private sector-Legal officer (Year 3)	41,407	1	41,407	1	41,407	\$140.96	\$5,836,705
Prepare HRA for private-sector- Benefit manager (Year 3)	41,407	1	41,407	2	82,814	\$121.78	\$10,085,044
Cancel HRA- Individual (Year 1)	6,689	1	6,689	5/60	557	-	\$0
Cancel HRA- Individual (Year 2)	23,631	1	23,631	5/60	1,969	-	\$0
Cancel HRA- Individual (Year 3)	39,182	1	39,182	5/60	3,265	-	\$0
Total (Average)	354,960*		4,280,392 **	0.0248	106,261	-	\$13,372,415
DOL’s Share (Average)	177,480		2,140,197	0.0248	53,131	-	\$6,686,208

*The total average number of respondents is calculated in the following manner: 34,777 (HRA Notice to Participants + 297,016 (Verification of Enrollment in Individual Coverage) + 23,167 (Participant Notification of Individual Coverage HRA of Cancelled or Discontinued Coverage) = 354,960. As the DOL and Treasury share the burden, DOL’s Share is 177,480 respondents.

**The total average number of responses is calculated in the following manner: 396,021 (HRA Notice to Participants + 3,564,188 (Verification of Enrollment in Individual Coverage) +

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297,016 (Notice to Participants that Individual Policy is not subject to title I of ERISA) + 23,167 (Participant Notification of Individual Coverage HRA of Cancelled or Discontinued Coverage) = 4,280,392. As the DOL and Treasury share the burden, DOL’s Share is 2,140,197 responses.

13. Provide an estimate of the total annual cost burden to respondents or record-keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12.)

The Departments estimates that there would be 114,337 eligible participants²⁰ at private employers in the first year starting in mid-2022 that would need to receive the HRA notice. The Departments assume that approximately 58.2 percent of notices would be provided electronically and approximately 41.8 percent will be provided in print along with other benefits information. The Departments estimate that each notice would cost \$0.30. Therefore, a total of 47,793 notices will be printed at a cost of \$14,338 in the first year.

In the second year and third year, the Department estimates that respectively 403,954, and 669,773 eligible participants at private employers would need to receive the HRA notice. Thus, in the second year and third year, the Department estimates 168,852 notices, and 279,965 notices will be printed, respectively. The cost burden for next two years is estimated as: \$50,656 for the second year and \$83,989 for the third year with an average annual cost burden as \$49,661.

Activity (Year)	Total # of Notices	# of Notices Sent by Mail	Cost Per Notice	Total Cost Burden
(a)	(b)	(c) = (b)*41.8%	(d)	(e) = (c)*(d)
Notice to private-sector participants (Year 1)	114,337	47,793	\$0.30	\$14,338
Notice to private-sector participants (Year 2)	403,953	168,852	\$0.30	\$50,656
Notice to private-sector participants (Year 3)	669,773	279,965	\$0.30	\$83,989
Total Average (mid 2022- mid 2025)	396,021	165,537	\$0.30	\$49,661

As the DOL and Treasury share the burden, DOL’s share per year on average is \$24,831 with an average of 165,897 policy holders and employers sending an average of 2,128,613 notice and disclosure allocated to each Department for measuring impact.

²⁰ Number of eligible participants is estimated based on the assumption that 75 percent of eligible participants would enroll in their employers’ plans. See Section 3 of the Kaiser “2020 Employer Health Benefits Survey” at <https://files.kff.org/attachment/Report-Employer-Health-Benefits-2021-Annual-Survey.pdf>.

- 14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.**

None.

- 15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14.**

On January 28, 2021, Executive Order 13813 was revoked by Executive Order 14009 , “Strengthening Medicaid and the Affordable Care Act,” however; the regulations are still in effect.

The Department also added the burden associated with the requirement in the regulation - Participant Notification of Individual Coverage HRA of Cancelled or Discontinued Coverage. The regulation requires that individual coverage HRA must require that the individual notify the HRA that coverage has been cancelled or discontinued and the date on which the coverage cancellation or discontinuance is effective. It is estimated that an average of 23,167 participants annually will cancel or discontinue their HRA coverage. The burden for this ICR is shared with Treasury/IRS. As a result the Department estimates that there will be 11,584 respondents with a corresponding 965 hours of time burden.

The Department has also updated the postage cost, the electronic disclosure rate, and the data inputs. In addition, the Department has calculated the number of new employers offering HRAs for the first time in a different manner compared to the previous submission. In the previous submission, the Department of Treasury used a stimulation model and estimated 80,000 employers for 2020, 200,000 employers for 2021, and 400,000 employers for 2022.

In this submission, the Department of Treasury used a stimulation model and estimated the number of employees enrolled in HRAs. The Department of Labor estimated the number of employers offering HRAs for the first time by multiplying the number of enrolled employees with the number of employees per employers. The number of employees per employers was calculated based on the 2020 Health Insurance Coverage Bulletin²¹ and the 2020 MEPS-IC data. Based on this estimate, we estimated 18,073

21 Employee Benefits Security Administration. “Health Insurance Coverage Bulletin.” (March 2020). <https://www.dol.gov/sites/dolgov/files/EBSA/researchers/data/health-and-welfare/health-insurance-coverage-bulletin-2020.pdf>

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employers for year 1 starting in mid-2022, 63,853 employers for year 2, and 105,872 employers for year 3. Thus, compared to the previous submission, there was a decrease in the estimated number of employers offering HRAs for the first time. As a result, the number of respondents, burden hours, and cost burden decreased in this submission.

- 16. For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

Not applicable.

- 17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

Not applicable.

- 18. Explain each exception to the certification statement identified in Item 19.**

Not applicable; no exceptions to the certification statement.

B. STATISTICAL METHODS.

This information collection does not employ statistical methods.