

## **Justification for Non-material or Non-substantive Change to Currently Approved Collection**

**AGENCY:** Employee Benefits Security Administration (EBSA)

**TITLE:** Affordable Care Act Internal Claims and Appeals and External Review Procedures for ERISA Plans

**STATUS:** OMB Control Number: 1210-0144 Exp. Date: 05/31/2025

Section 2719 of the Public Health Service (PHS) Act requires group health plans and health insurance issuers offering group or individual health insurance coverage (plans and issuers) to provide the internal claims and appeals and external review notices in a culturally and linguistically appropriate manner. To meet this requirement, regulations implementing section 2719 of the PHS Act specify that plans and issuers must provide the following in any applicable non-English language: (1) oral language services; (2) translated notices upon request; and (3) taglines on notices indicating how to access the language services provided by the plan or issuer.<sup>1</sup> These regulations specify that a non-English language is an applicable non-English language, with respect to an address in any United States county to which a notice is sent, if ten percent or more of the population residing in the county is literate only in the same non-English language, as determined in guidance published by the Secretary.

The Departments of Labor, Health and Human Services, and the Treasury (the Departments) previously published guidance identifying Spanish, Chinese, Tagalog, and Navajo as applicable non-English languages in which plans and issuers must provide oral language services, translated notices upon request, and taglines on notices, if sent to certain U.S. counties.<sup>2</sup>

In November 2023, the Departments published updated guidance identifying four additional languages (Pennsylvania Dutch, Samoan, Carolinian, and Chamorro) that meet the ten percent threshold based on recent U.S. Census data.<sup>3</sup> As such, plans and issuers must provide oral language services, translated notices upon request, and taglines on notices in those four additional languages, if sent to certain U.S. counties. The added tagline for each language states “For assistance in [non-English language], please call [telephone number].” This guidance is applicable beginning with plan years beginning on or after January 1, 2025.<sup>4</sup>

As a non-material/non-substantive change request, the Department of Labor is incorporating four additional taglines in the Adverse Benefit Determination Model

<sup>1</sup> 26 CFR 54.9815-2719(e), 29 CFR 2590.715-2719(e), and 45 CFR 147.136(e).

<sup>2</sup> CLAS County Data (January 2016), available at <https://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/CLAS-County-Data-Jan-2016-update-FINAL.pdf>.

<sup>3</sup> See FAQs about Affordable Care Act and Consolidated Appropriations Act, 2021 Implementation Part 63 (November 28, 2023), available at <https://www.cms.gov/files/document/faqs-part-63.pdf>.

<sup>4</sup> County Data for Culturally and Linguistically Appropriate Services (CLAS County Data), November 2023, available at <https://www.cms.gov/files/document/clas-county-data-2023.pdf>

Notice, Final Internal Adverse Benefit Determination Model Notice, and the Final External Review Decision Model Notice.

OMB Control Number 1210-0144 is scheduled to expire on May 31, 2025. The Department is not making any other changes to the form.