SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT OF 1995: ELECTRONIC DISCLOSURE BY EMPLOYEE BENEFIT

This information collection request (ICR) seeks approval for a new 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.

The 2026 proposed rule sets forth a new, additional safe harbor for group health plan administrators to use electronic media (e.g., email or web portal) to furnish documents and information to participants and beneficiaries of plans subject to the Employee Retirement Income Security Act of 1974 (ERISA). This proposal, if finalized, would allow plan administrators of group health plans who satisfy specified conditions to provide participants and beneficiaries with a notice that certain disclosures will be made available electronically on a website. Individuals who prefer to receive these disclosures on paper will be able to request paper copies and to opt out of electronic delivery entirely. The Department expects that the proposal, if finalized, would improve the effectiveness of the disclosures and significantly reduce the costs and burden to group health plans associated with furnishing many of the recurring disclosures.

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 2026 proposed rule would provide a safe harbor to plan administrators of group health plans to rely on for disclosure through electronic media that largely mirrors the 2020 safe harbor available for pension plans. The proposed safe harbor allows plans to furnish covered documents by posting them on an internet website and providing covered individuals with a Notice of Internet Availability (NOIA), while still allowing covered individuals the option to receive paper disclosures. The proposed rule defines covered documents for group health plans as any document or information that the administrator is required to furnish to participants under Title I of ERISA. In addition, a dependent child who has attained age 18 and has provided an electronic address may be treated as a covered individual for purposes of receiving electronic disclosures. Key requirements of the proposed safe harbor impacting the costs and benefits are described below.

A. <u>Notice of Internet Availability</u>

The proposed rule would require group health plans to furnish covered documents by posting the documents on an internet website and providing covered individuals with an NOIA. The NOIA must be furnished electronically to the electronic address that is either provided by the covered individual or assigned by an employer to an employee for employment-related purposes, must be separate from other documents (subject to limited exceptions), and must be written in a manner calculated to be understood by the average plan participant. While the notice may include logos, pictures, or similar design elements, the design may not be inaccurate or misleading and must present the required content clearly.

B. Initial Notice of Default E-Delivery and Right to Opt-out Notice

The administrator for a group health plan is required to furnish to each individual, prior to the administrator's reliance on the electronic delivery safe harbor:

- a notification that covered documents will be furnished electronically to an electronic address;
- identification of the electronic address that will be used for the individual;
- any instructions necessary to access the covered documents;
- a cautionary statement that the covered document is not required to be available on the website for more than one year or, if later, after it is superseded by a subsequent version of the covered document;
- a statement of the right to request and obtain a paper version of a covered document, free of charge, and an explanation of how to exercise this right; and
- a statement of the right, free of charge, to opt out of electronic delivery and receive only paper versions of covered documents, and an explanation of how to exercise this right.

In addition, such notification must be written in a manner calculated to be understood by the average plan participant.

C. Posting Disclosures and Documents Online

The proposed rule also clarifies standards for the internet website on which covered documents are made available. The plan administrator would be required to ensure that a website exists where covered individuals are able to access these documents, and that the documents are available on the website no later than the date on which they are required to be furnished under ERISA. The proposed rule recognizes existing administrative arrangements by permitting the website to be established and maintained by the issuer of group health insurance coverage in the case of insured group health plans, or by a third-party administrator or other service provider in the case of self-insured group health plans.

D. Procedures for Electronic Addresses that are Invalid or Inoperable

Finally, the proposed rule would establish requirements for situations in which a covered individual's electronic address becomes invalid or inoperable. If an NOIA is returned as undeliverable or the administrator otherwise becomes aware that an electronic address is invalid, the administrator must take reasonable steps to cure the problem, such as using a secondary electronic address or obtaining a new valid address. If the issue cannot be resolved, the covered individual must be treated as having opted out of electronic delivery.

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.

Under the proposed rule, plan administrators for group health plans could choose to utilize a new safe harbor to furnish certain required disclosures electronically to plan participants, beneficiaries, and other individuals entitled to the disclosures. Under the proposed safe harbor, group health plans would be required to furnish covered documents by posting the documents on an internet website and would be required to provide covered individuals with an NOIA. The proposed rule establishes requirements for a covered individuals' right to receive paper copies and to opt out of electronic delivery. Upon request, a covered individual must be furnished, free of charge, a paper copy of any covered document. Covered individuals may also globally opt out of electronic delivery and receive only paper versions of covered documents. These changes also reduce burden for health plans by lowering the cost to deliver the required notices.

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.

Under these rules, group health plans covered under Title I of ERISA may use electronic media to satisfy disclosure and recordkeeping obligations, subject to specific safeguards. ERISA establishes general standards for the delivery of all information required to be furnished to participants, beneficiaries, and other individuals and the standards for maintenance and retention of records. The proposed rule allows plans to furnish certain notices electronically through website posting and providing an NOIA, rather than by default paper delivery. Other rules exist that facilitate the use of electronic media for ERISA plans. This proposed rule does not override those other rules, but provides an alternative.

In 1997, the Department of Labor (Department) amended the general standards for delivery of certain required disclosures by establishing a safe harbor for the use of electronic media by group health plan administrators at 29 CFR 2520.104b-1(c).[1] In 2002, the Department expanded the safe harbor (2002 safe harbor) to apply to disclosures under Title I of ERISA generally, accounting for the expanded scope of required disclosures under ERISA for pension benefit plans and group health plans.[2] Accordingly, group health plan administrators may follow the 2002 safe harbor in paragraph (c) of 29 CFR 2520.104b-1 to satisfy the general delivery requirements when furnishing disclosures electronically.

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

The proposed rule would provide flexibility to group health plans, including small group health plans, by permitting required disclosures to be furnished electronically through website posting and providing an NOIA, rather than by default paper delivery. By allowing group health plans to rely on existing electronic communication practices and to use websites maintained by insurers or third-party administrators, the proposed rule would reduce printing, mailing, and administrative costs associated with paper disclosures. At the same time, the proposed rule would preserve protections for participants and beneficiaries by maintaining the right to receive paper copies upon request and to opt out of electronic delivery, ensuring that the approach accommodates group health plans of varying sizes and administrative capabilities and participants' and beneficiaries' choice in method of delivery.

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.

The proposed rule removes legal obstacles to electronic disclosures allowing group health plans to provide disclosures on a website after notifying covered individuals of the availability of the disclosure and providing them with the opportunity to request paper disclosures. Without the proposed rule, administrators of group health plans wanting to provide disclosures electronically must rely on the 2002 safe harbor to be assured they are complying with the general ERISA disclosure requirements.

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

1 *See* 62 Fed. Reg. 16979 (Apr. 8, 1997). The 1997 safe harbor permitted the electronic disclosure of summary plan descriptions (SPDs), summaries of material modifications (SMMs), and summaries of material reductions in covered services, and other summaries of plan modifications and SPD changes.
2 *See* 67 Fed. Reg. 17264, 17266 (Apr. 9, 2002)

- **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 of the specified special circumstances apply.

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 recordkeeping, 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.

The Department published a Federal Register notice on July 23, 2026 (91 FR 46602), as required by 5 CFR 1320.8(d), soliciting comments on the information collection and providing the public with 60 days to comment on the submission.

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

No payments or gifts are provided to respondents.

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

No assurance of confidentiality was provided.

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.

There are no questions of a sensitive nature.

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. General, 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.**
- **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 14.**

A. Notice of Internet Availability

Due to differences in administrative capacity of group health plans, the Department distinguishes health plans by size for the purpose of estimating compliance costs. The largest group health plans are more likely to use in-house staff to satisfy the rules requirements. In contrast, smaller group health plans are more likely to rely on TPAs, issuers, or other service providers for compliance support.

The Department estimates there are 20,570 ERISA-covered group health plans with 1,000 or more participants.[3] Additionally, the Department estimates that there are 205 TPAs and 811 insurance issuers serving small group health plans.

The proposed rule requires that plan administrators of group health plans furnish to each covered individual a NOIA for each covered document. Under the proposed rule, a plan administrator may furnish one annual NOIA that identifies multiple covered documents for certain covered documents such as a summary plan description and any covered document or information that must be furnished annually, rather than upon the occurrence of a particular event.

The Department assumes the preparation of the notice would primarily be automated and would rely on standardized templates. Delivery of the notice would also be automated and sent electronically. Therefore, the Department estimates that group health plans would require one hour of compensation and benefits manager's time, at a wage rate of $193.15,[4] to prepare the NOIA in the first year. The sending of the notice would have de minimis burden. Please see Table 1 for calculations and burden.

B. Initial Notice of Default E-Delivery and Right to Opt-out

The proposed rule would require group health plans to send the initial notice of default e-delivery and right to opt-out to each individual prior to relying on the proposed safe harbor. The proposed rule would require the notice to be a paper copy unless the individual has been receiving documents and information electronically prior to the applicability date of a finalized rule. The Department assumes that each plan would send

3 The Department assumes that group health plans with 1,000 or more participants send the Notice of Internet Availability (NOIA) to all participants. For the group health plans less than 1,000 participants, TPAs, and insurance issuers will furnish NOIA. The Department estimates there are 20,570 ERISA-covered group health plans with 1,000 or more participant using the 2023 Medical Expenditure Panel Survey Insurance Component (MEPS-IC) and the 2021 County Business Patterns from the Census Bureau.

4 Internal DOL calculation for 2026 labor costs, based on 2024 labor cost data. For a description of DOL's methodology for calculating wage rates, see *Labor Cost Inputs Used in the Employee Benefits Security Administration, Office of Policy and Research's Regulatory Impact Analyses and Paperwork Reduction Act Burden Calculations* (June 2019), https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/rules-and-regulations/technical-appendices/labor-cost-inputs-used-in-ebsa-opr-ria-and-pra-burden-calculations-june-2019.pdf.

the notice of default e-delivery and the opt-out notifications and that the preparation of these notices would primarily be automated and would rely on standardized templates. Therefore, the Department estimates that group health plans would require one hour of compensation and benefit manager's time to prepare the notice in the first year. Please see Table 1 for calculations and burden.

C. Procedures for Electronic Addresses that are Invalid or Inoperable

The Department anticipates a small share of emails would be non-deliverable and would bounce back. In such cases, plans would undertake follow-up actions to obtain a valid email address or provide the notice through paper. The Department recognizes that this process requires some administrative effort; however, maintaining participant contact information, monitoring email delivery, and following up with the affected individuals are already part of the plan's regular business practices. Given the routine nature of these administrative tasks, the Department believes that the proposed requirements would not impose significant additional burden on plans.

D. Posting Disclosures and Documents Online

Most group health plans offer independent online platforms, such as websites and online portals, that enable users to access information regarding coverage options, benefits, claims processing, and other relevant updates. While a minority of health plans may lack dedicated websites, their information is still accessible through third-party websites or the websites of their parent companies. The Department is of the view that all of the required documents are currently available online to participants and plans and issuers would leverage their existing systems and would thus not incur any additional burden or cost to create new websites or participant portals as a result of this proposed rule.

The Department notes that the posting of disclosures and documents on a website or a participant portal is not a new requirement of the proposed rule but is already included in the baseline as a part of the Department of Labor's 2002 safe harbor. The proposed rule would provide an additional safe harbor allowing default electronic disclosure which would encourage more plans, specifically group health plans, to rely on electronic delivery. The Department does not expect plans to incur additional costs as a result of posting disclosures and documents online. For example, if a disclosure is generic and applies to the plan as a whole, plans have already likely posted such documents on their websites and therefore would not incur additional costs.

The Department acknowledges that there are some participant-specific scenarios, which may arise that were previously not part of the baseline. One scenario could be where a disclosure is specific to a participant, and the participant is transitioning from paper to electronic delivery. In this scenario, the plan may need to post such documents online for

these individual participants, however they may already post this notice for other plan participants and therefore have the processes in place to expand. Another more likely scenario is that plans may already post individual-specific documents online, even when a participant has requested paper delivery but maintains an online account. Although plans may incur some costs in these scenarios, these activities are part of current operations; therefore, the Department does not anticipate that the proposed rule would result in significant additional burden to plans.

E. Summary of Total Hour Burden

The three-year average hour burden for this information collection is 14,391 hours with an equivalent burden of $2,779,557.

Table 1. Hour Burden and Equivalent Cost of Hour Burden

Activity	Number of Respondents	Number of Responses per Respondent	Total Responses	Average Burden (Hours)	Total Burden (Hours)	Hourly Wage Rate	Total Burden Cost
Benefit and Compensation Manager prepares notice of internet availability (First Year)	21,586	1	21,586	1	21,586	$193.15	$4,169,336
Benefit and Compensation Manager prepare opt-out notification (First Year)	21,586	1	21,586	1	21,586	$193.15	$4,169,336
First-Year Total	**21,586***	-	**44,478,847****	-	**43,172**	-	**$8,338,672**
Three-Year Average Total	**21,586**	-	**44,478,847**	-	**14,391**	-	**$2,779,557**

Note:
*As discussed in Question 12, the Department estimates there are 20,570 ERISA- covered group health plans with 1,000 or more participants, using the 2024 MEPS Data. Additionally, the Department estimates that there are 205 TPAs and 811 insurance issuers serving small group health plans. Therefore, the number of respondents is calculated in the following manner: 20,570

ERISA-covered group health plans with 1,000 or more participants + 205 TPAs + 811 TPAs = 21,586 respondents.
**As shown in Table 2, the Department estimates that 44,478,847 opt-out notifications will be sent to participants.

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

- **The cost estimate should be split into two components: (a) a total capital and start up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of service component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**
- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
- **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.**

A. Notice of Internet Availability

The Department assumes that the NOIA would be sent electronically and in most cases would be fully automated, therefore plans would not incur any additional cost to send these notices.

B. Initial Notice of Default E-Delivery and Right to Opt-out

Under the proposed rule, the administrator for a group health plan is required to furnish to each individual, prior to the administrator's reliance on the electronic delivery safe harbor, an initial notification. The initial notification must contain certain content, including notice that covered document will be made available on a website and the right to receive a paper copy of a covered document and the right to opt-out of electronic delivery and only receive paper versions. In the first year, the initial notifications are assumed to be sent to all participants. The Department estimates that there are 68,134,832 policyholders between the ages of 15 and 64 in the private sector, based on the 2024 Current Population Survey's Annual Social and Economic Supplement.

In subsequent years, initial notifications are assumed to be sent only to newly enrolled participants. Using the 2024 Job Openings and Labor Turnover Survey (JOLTS) data, there are 60,859,000 new hires in the private sector. The Department also estimates that 53.65 percent of workers are ESI policyholders, based on the 2024 Current Population's Survey Annual Social and Economic Supplement. This results in an estimated 32,650,854 ESI policyholders needing opt-out notification (60,859,000 new hires x 53.65 percent).

The Department assumes that this notice would be sent with other plan materials, resulting in only printing costs. The Department estimates the printing cost to be 5 cents per page, resulting in a mailing cost of $0.20 per notice.[5] Please see Table 2 for burden and calculations.

C. Website

The Department expects that all of the required documents are currently available online either directly through their own websites, or through TPAs, or issuers. Timely updates of websites with recent information is a regular business operation for the plans. Therefore, there would not be any cost for this activity.

D. Summary of Total Cost Burden

The three-year average cost burden for this information collection is $8,895,769

Table 2. Cost Burden

Activity	Total Number of Notices or	Number of Pages	Material Cost per Page or Annual	Total Cost

5 The Department assumes that the initial notice of default e-delivery and right to opt-out notification would be 4 pages long. The printing cost for each page is five cents. Thus, the mailing cost per notice is $0.20 ($0.05 x 4 pages = $0.20).

	Emails		Cost of E-Mail Tracking	
	(A)	**(B)**	**(C)**	**(D) = (A x B x C)**
Opt-out Notification (First Year)	68,134,832	-	$0.20	$13,626,966
Opt-out Notification (Subsequent Years)	32,650,854	-	$0.20	$6,530,171
Three-Year Average Total	**44,478,847**	-	-	**$8,895,769**

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.

There is no cost to the Federal government associated with this information collection.

15. Explain the reasons for any program changes or adjustments reporting in Items 13 or 14.

This is a new information collection associated with the 2026 proposed rule.

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.

There are no plans to publish the results of this collection of information.

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.

The collection of information will display a currently valid OMB control number.

18. Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."

There are no exceptions to the certification statement.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

The use of statistical methods is not relevant to this collection of information.