

DEPARTMENT OF LABOR**Pension and Welfare Benefits Administration****Proposed Extension of Information Collection Request Submitted for Public Comment and Recommendations; Summary Plan Descriptions Under ERISA****ACTION:** Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, provides the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Pension and Welfare Benefits Administration is soliciting comments concerning the proposed extension of a currently approved collection of information, Summary Plan Description Requirements under the Employee Retirement Income Security Act (ERISA). A copy of the proposed ICR can be obtained by contacting the employee listed below in the contact section of this notice.

DATES: Written comments must be submitted on or before December 30, 1997. The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
 - Enhance the quality, utility, and clarity of the information to be collected; and
 - Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Gerald B. Lindrew, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW., Room N-5647, Washington, DC 20210. Telephone: 202-219-4782 (this is not a toll-free number). Fax: 202-219-4745.

SUPPLEMENTARY INFORMATION:**I. Background**

The administrator of an employee benefit plan is required to furnish a Summary Plan Description (SPD) to each participant covered under the plan and to each beneficiary who is receiving benefits under the plan. The SPD must be written in a manner calculated to be understood by the average plan participant and must be sufficiently comprehensive to apprise the plan's participants and beneficiaries of their rights and obligations under the plan. To the extent that there is a material modification in the terms of the plan or a change in the information required to be contained in the SPD, ERISA requires that the administrator furnish participants covered under the plan and beneficiaries receiving benefits with a summary of such changes (SMM). The Health Insurance Portability and Accountability Act (HIPAA) and the Newborns' and Mothers' Health Protection Act (NMHPA) amend certain reporting and disclosure provisions of ERISA. On April 8, 1997, the Department of Labor issued Interim Rules Amending ERISA Disclosure Requirements for Group Health Plans with an information collection request (ICR). 62 F.R. 31695. OMB approved this ICR through December 31, 1997 under OMB control number 1210-0039. Subsequently, the Department published the OMB control number in the **Federal Register**. 62 FR 36205 (July 7, 1997).

II. Current Actions

Pension and Welfare Benefits Administration proposes to extend the currently approved information collection requirements of ERISA's Summary Plan Description Requirements.

Type of Review: Extension of a currently approved collection.

Agency: Pension and Welfare Benefits Administration.

Title: Summary Plan Description Requirements under ERISA.

OMB Number: 1210-0039.

Affected Public: Business or other for-profit, Not-for-profit institutions, Individuals.

Total Responses (annual): 43,952,715 (1997), 62,728,915 (1998), 31,896,715 (1999).

Total Respondents (annual): 176,315 (1997), 194,235 (1998), 163,515 (1999).

Frequency: On occasion.

Average Time per Response:

Average SPD/SMM—We estimate it takes an average of 6 hours for preparation of SPDs/SMMs, including the time to copy and assemble the document.

SMM Compliance—We estimate that preparation of an SMM sufficient to satisfy the requirements of the Interim Rules will take an average of 1 hour.

Distribution—We estimate that 2 minutes per participant is the time needed to distribute an SMM/SPD, including time spent reproducing the document and mailing the document.

Estimated Total Burden Hours: 1,007,425 (1997), 1,130,283 (1998), 942,980 (1999).

There is estimated to be no capital/start-up cost.

Total Burden Cost for operating/maintenance is estimated to be \$72,310,858 in 1997, \$82,338,958 in 1998 and \$65,002,858 in 1999.

Note. The average Time Per Response, Estimated Total Burden Hours, and Total Burden Cost have been estimated without accounting for those respondents that will implement the "alternative mechanisms to delivery by mail" provision contained in the interim rules. It is expected that some respondents will use these alternatives, and that these alternatives will reduce burden hours and costs.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the ICR; they will also become a matter of public record.

Dated: October 28, 1997.

Gerald B. Lindrew,

Deputy Director, Pension and Welfare Benefits Administration, Office of Policy and Research.

[FR Doc. 97-28917 Filed 10-30-97; 8:45 am]

BILLING CODE 4510-29-M

DEPARTMENT OF LABOR**Pension and Welfare Benefits Administration****Proposed Extension of Information Collection Request Submitted for Public Comment and Recommendations; Health Insurance Portability for Group Health Plans****ACTION:** Notice.

SUMMARY: The Department of Labor submits this notice to extend its public information collection request (ICR) under the Health Insurance Portability and Accountability Act of 1996

(HIPAA), Pub. L. 104-191, consisting of three distinct ICRs, to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). These three ICRs were first published in the **Federal Register** under the Interim Rules implementing the Health Insurance Portability Requirements for Group Health Plans on April 8, 1997. 62 FR 16920 through 16923 (April 8 Interim Rules). In the April 8 publication, the Department submitted the group market information collection requirements for, among other things, establishing creditable coverage, notice of special enrollment rights, and notice of pre-existing condition exclusions to OMB for emergency review under the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). OMB approved these ICRs through December 31, 1997 under OMB Control numbers 1210-0103, 1210-0101, and 1210-0102, respectively. Subsequently, the Department published the OMB control numbers in the **Federal Register**. 62 FR 36204 (July 7, 1997).

The April 8 Interim Rules contained three distinct ICRs. The ICRs on group health plans' obligations regarding Establishing Prior Creditable Coverage and Notice of Enrollment Rights are prescribed by the statute.

The first ICR implements statutorily prescribed requirements necessary to establish prior creditable coverage. This is accomplished primarily through the issuance of certificates of prior coverage by group health plans or by service providers that the group health plans contract with in order to provide these documents. In addition, this ICR permits plans to use a notice to meet their obligations in connection with periods of coverage ending during the transition period, October 1, 1996 through May 31, 1997, saving the respondents both hours and cost during that period. This ICR also covers the requests that certain plans will make regarding additional information they require because they are using the Alternative Method of Crediting Coverage. Finally, this ICR also includes the occasional circumstances where a participant is unable to secure a certificate and needs to provide some supplemental form of documentation in order to establish prior creditable coverage.

The second ICR, Notice of Special Enrollment Rights, implements the statutorily prescribed disclosure obligation of the plans to inform a participant, at the time of enrollment, of the plan's special enrollment rules.

The third ICR, Notice of Pre-Existing Condition Exclusion, concerns the disclosure requirements on those plans that contain pre-existing condition exclusion provisions. This ICR has two components: a notice to all participants at the time of enrollment stating the terms of the plan's pre-existing condition provisions, the participant's right to demonstrate creditable coverage, and that the plan or issuer will assist in securing a certificate if necessary; and notice by the plan of its determination that an exclusion period applies to an individual.

1. Establishing Prior Creditable Coverage

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 34) and 5 CFR 1320.11. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Pension and Welfare Benefits Administration is soliciting comments concerning the proposed extension of a currently approved collection of information, Establishing Prior Creditable Coverage. A copy of the proposed ICR can be obtained by contacting the employee listed below in the contact section of the notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before December 30, 1997. The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the

use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Gerald B. Lindrew, Office of Policy and Research, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, Room N-5647, Washington, D.C. 20210. Telephone: 202-219-4782 (this is not a toll-free number). Fax: 202-219-4745.

SUPPLEMENTARY INFORMATION:

I. Background

In order to meet HIPAA's goal of improving access to and portability of health care benefits, the statute provides that, after the submission of evidence establishing prior creditable coverage, a subsequent health insurance provider would be limited in the extent to which it could use pre-existing condition exclusions to limit coverage. This ICR covers the submission of materials sufficient to establish prior creditable coverage.

II. Current Actions

Under 29 CFR 2590.70-5 of the April 8 Interim Rule, a group health plan offering group health insurance coverage is obliged to provide a written certificate of information suitable for establishing the prior creditable coverage of a participant or beneficiary. To the extent that a certification is not available or inadequate to prove prior creditable coverage, paragraph (c) provides other methods for establishing creditable coverage. During the transition period for certification under 29 CFR 2590.710(e), plans have the option of providing notices regarding participant's rights to certification rather than the certification itself; plans then provide certificates only to those participants who request them. 29 CFR 2590.701-5(a)(7) provides special rules for establishing prior coverage of dependents, and 29 CFR 2590.701-5(b) provides guidance on providing evidence of coverage to those plans that use the alternative method of crediting coverage.

The April 8 Interim Rules offer model certification and notice forms to be used by group health plans and health insurance issuers, containing the minimum information mandated by the statute. Based on past experience, the staff believes that most of the materials required to be exchanged under the certification procedure will be prepared by contract service providers such as

insurance companies and third-party administrators.

Type of Review: Extension of a currently approved collection.

Agency: U.S. Department of Labor, Pension and Welfare Benefits Administration.

Title: Establishing Prior Creditable Coverage.

OMB Number: 1210-0103.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions; Group Health Plans.

Frequency: On occasion.

BURDEN

Year	Total respondents	Total responses	Average time per response (range)	Burden hours (range)	Cost (range)
1997	2,600,000	51,799,410	3.23 min	502,080	\$57,180,000
			6.12 min	950,710	84,590,000
1998	2,600,000	44,431,970	5.04 min	672,120	64,480,000
			11.77 min	1,569,390	119,310,000
1999	2,600,000	44,399,150	5.27 min	702,360	66,310,000
			12.01 min	1,599,630	121,140,000

Start up costs: It is estimated that the 15,604 plans that will perform these functions internally (rather than use a service provider) will incur an average cost of \$5,000 per plan to revise their automated records systems to accommodate this information for a total cost of \$78 million over 10 years beginning in 1997.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection request; they will also become a matter of public record.

2. Notice of Enrollment Rights

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed information collection requests (ICR) in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35) and 5 CFR 1320.11. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Pension and Welfare Benefits Administration is soliciting comments concerning the proposed extension of a currently approved collection of information, Notice of Enrollment Rights.

Dates: Written comments must be submitted to the office listed in the

addressee section below on or before December 30, 1997.

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Addresses: Gerald B. Lindrew, Office of Policy and Research, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, Room N-5647, Washington, D.C. 20210. *Telephone:* 202-219-4782 (this is not a toll-free number). *Fax:* 202-219-4745.

I. Background

In order to improve participants' understanding of their rights under an employer's welfare benefit plan, the statute provides that, a participant be provided with a description of a plan's

special enrollment rules on or before the time when a participant is offered the opportunity to enroll in a group health plan.

II. Current Actions

Under 29 CFR 2590.701-6 of the April 8 Interim Rules, a group health plan offering group health insurance coverage is obligated to provide a description of the plans' special enrollment rules. The special enrollment rules generally apply in circumstances when the participant initially declined to enroll in the plan, and subsequently would like to have coverage.

The April 8 Interim Rules offer a model form to be used by group health plans and health insurance issuers, containing the minimum information mandated by the statute. Based on past experience, the staff believes that most of the materials required to be supplied under this ICR will be prepared by contract service providers such as insurance companies and third-party administrators.

Type of Review: Extension of a currently approved collection.

Agency: U.S. Department of Labor, Pension and Welfare Benefits Administration.

Title: Notice of Enrollment Rights.

OMB Number: 1210-0101.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions; Group Health Plans.

Frequency: On occasion.

BURDEN

Year	Total respondents (000)	Total responses	Average time per response	Burden hours	Cost
1997	2,600,000	499,080	.50 min	750	100,000
1998	2,600,000	7,622,010	.50 min	11,430	1,460,000
1999	2,000,000	8,959,380	.50 min	13,440	1,720,000

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection request; they will also become a matter of public record.

3. Notice of Pre-Existing Condition Exclusion

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed information collection requests (ICR) in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35) and 5 CFR 1320.11. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Pension and Welfare Benefits Administration is soliciting comments concerning the proposed extension of a currently approved collection of information, Notice of Pre-Existing Condition Exclusion. A copy of the proposed ICR can be obtained by contacting the employee listed below in the contact section of the notice.

Dates: Written comments must be submitted to the office listed in the addressee section below on or before December 30, 1997.

The Department of Labor is particularly interested in comment which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information will have practical utility;

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance of quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Addressee: Gerald B. Lindrew, Office of Policy and Research, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, Room N-5647, Washington, DC 20210. *Telephone:* 202-219-4782 (this is not a toll-free number). *Fax:* 202-219-4745.

I. Background

In order to meet HIPAA's goal of improving portability of health care coverage, participants need to understand their rights to show prior creditable coverage when entering a group health plan that contains pre-existing condition exclusion provisions. In addition, participants entering plans that use the alternative method of crediting coverage also need to be informed of the plan's provisions. Therefore, the Department has determined that plans that contain these provisions must disclose that fact to new participants, as well as inform individual participants of the extent to which a pre-existing condition exclusion applies to them.

II. Current Actions

29 CFR 2590.701-3(c) requires that a group health plan or health insurance issuer offering group health insurance under the plan may not impose any pre-existing condition exclusions on a participant unless the participant has been notified in writing that the plan contains pre-existing condition exclusions, that a participant has the right to demonstrate any period of prior creditable coverage, and that the plan or issuer will assist the participant in obtaining a certificate of prior coverage from any prior plan or issuer, if necessary. 20 CFR 2590.701-4(c)(4) requires that plans that use the alternative method of crediting coverage disclose their method at the time of enrollment in the plan. No additional cost of preparing or distributing this information has been included in this analysis because plans would only pursue this option if it were, on net, less costly than the standard method.

In addition, 29 CFR 2590.701-5(d)(2) requires that before a plan or issuer imposes a pre-existing condition exclusion on a particular participant, it must first disclose that determination in writing, including the basis for the decision, and an explanation of any appeal procedure established by the plan or issuer.

Type of Review: Extension of a currently approved collection.

Agency: U.S. Department of Labor, Pension and Welfare Benefits Administration.

Title: Notice of Pre-Existing Exclusion Provisions.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions; Group Health Plans.

Frequency: On occasion.

BURDEN

Cite/reference	Total respondents	Total responses	Average time per response	Burden hours	Cost
Notice at time of Enrollment:					
1997	1,261,450	500,800	0.70 min	2,470	\$180,000
1998	1,261,450	7,626,880	0.54 min	16,300	1,700,000
1999	1,261,450	8,959,700	0.50 min	13,750	1,730,000
Notice of Pre-Existing Condition causing lack of coverage:					
1997	1,261,450	57,000	2.27 min	1,800	100,000

BURDEN—Continued

Cite/reference	Total respondents	Total responses	Average time per response	Burden hours	Cost
1998	1,261,450	862,830	0.84 min	6,160	410,000
1999	1,261,450	1,008,810	0.52 min	1,830	210,000

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the ICRs; they will also become a matter of public record.

Dated: October 28, 1997.

Gerald B. Lindrew,

Deputy Director, Pension and Welfare Benefits Administration, Office of Policy and Research.

[FR Doc. 97-28919 Filed 10-30-97; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL INDIAN GAMING COMMISSION

Submission for OMB Review; Comment Request

AGENCY: National Indian Gaming Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces that the following information collection activities have been forwarded to the Office of Management and Budget (OMB) for review and comment: (1) Compliance and Enforcement under the Indian Gaming Regulatory Act (IGRA); (2) Privacy Act Regulations; (3) Approval of Class II and Class III Gaming Ordinances; (4) National Environmental Policy Act Procedures; and (5) Annual Fees Payable by Class II Gaming Operations. The National Indian Gaming Commission (NIGC) is requesting approval for revision and three-year extension for each information collection activity.

DATES: Comments on this notice must be received by December 1, 1997.

ADDITIONAL INFORMATION OR COMMENTS: Comments should be addressed to Desk Officer for National Indian Gaming Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

SUPPLEMENTARY INFORMATION:

Title: Compliance and Enforcement Under the Indian Gaming Regulatory Act.

OMB Number: 3141-0001.

Abstract: The Indian Gaming Regulatory Act (25 U.S.C. 2701 et. seq.) governs the regulation of gaming on Indian lands. Although the IGRA places primary responsibility on tribes to regulate gaming, section 2706(b) of the IGRA directs the NIGC to monitor gaming conducted on Indian lands on a continuing basis. The IGRA authorizes the NIGC to demand access to and inspect all papers, books and records relating to gaming conducted on Indian lands. In accordance with this statutory responsibility, 25 CFR 571.7 requires Indian gaming operations to keep permanent financial records.

Respondents: Indian gaming owners or operators.

Estimated Number of Respondents: 220.

Estimated Annual Responses: 665.

Estimated Annual Burden Hours: 1090.

Estimated Burden Hours Per Response: 2.5.

Title: Privacy Act Procedures.

OMB Number: 3141-0002.

Abstract: To implement the IGRA, it is necessary for the NIGC to collect, maintain and use personal information gathered on certain individuals. Under 25 CFR 556.4 and 556.6, tribes must submit to the NIGC information regarding key employees and management officials employed at a tribal gaming operation. The NIGC compiles and stores this information in a system of records. Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a) agencies must promulgate regulations regarding the collection, maintenance, use and dissemination of records within a system. Under 25 CFR 515.3 individuals can request information on whether they are subject to any record. Individuals may also request access to those records. The regulations promulgated by the NIGC sets forth certain exemptions that would otherwise authorize the NIGC to withhold certain information made available under the Privacy Act.

Respondents: Individuals requesting access to records.

Estimated Number of Respondents: 45.

Estimated Annual Responses: 50.

Estimated Annual Burden Hours: 105.

Estimated Burden Hours Per Response: 2.

Title: Approval of class II and class III ordinances.

OMB Number: 3141-0003.

Abstract: The IGRA establishes the National Indian Gaming Commission as an independent regulatory agency to oversee Indian gaming. The IGRA sets standards for the regulations of gaming, including requirements for approval or disapproval of tribal gaming ordinances. IGRA Section 2705(a)(3) requires the Chairman to review all class II and class III tribal gaming ordinances and resolutions. In accordance with this provision, 25 CFR 552.2 of the NIGC's regulations require tribes to submit to the NIGC (1) a copy of all gaming ordinances and resolutions adopted after the effective date of the regulation; (2) background investigations for key employees or primary management officials; (4) copies of all gaming regulations; (5) copies of tribal-state compacts; (6) a description of dispute resolution procedures for disputes arising between the gaming public and the tribe or management contractor; (7) an independent audit; and (8) a request for approval of the ordinance or resolution. Under 25 CFR 522.3 tribes must submit amendments to the ordinance or resolution.

Respondents: Tribal gaming owners and operators.

Estimated Number of Respondents: 220.

Estimated Annual Responses: 977.

Estimated Annual Burden Hours: 70,922.

Estimated Burden Hours Per Response: 72.5.

Title: National Environmental Policy Act Procedures.

OMB Number: 3141-0006.

Abstract: The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq) was enacted to encourage a national policy of protecting, enhancing, and restoring the quality of the human environment. The Council on Environmental Policy (CEQ), established pursuant to the National Environmental Policy Act (NEPA) promulgated implementing regulations at 40 CFR 1501 et seq. NEPA and CEQ's regulations require every federal agency to establish procedures and strategies that consider the environmental consequences of federal agency actions. Under NEPA, federal agencies are