



DEPARTMENT OF LABOR

Employee Benefits Security Administration

Agency Information Collection Activities; Request for Public Comment

AGENCY: Employee Benefits Security Administration (EBSA), Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (the Department), in accordance with the Paperwork Reduction Act, provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Employee Benefits Security Administration (EBSA) is soliciting comments on the extension of the information collection requests (ICRs) contained in the documents described below. A copy of the ICRs may be obtained by contacting the office listed in the **ADDRESSES** section of this notice. ICRs also are available at [reginfo.gov](https://www.reginfo.gov/public/do/PRAMain) (<https://www.reginfo.gov/public/do/PRAMain>).

DATES: Written comments must be submitted to the office shown in the **ADDRESSES** section on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: U.S. Department of Labor, Employee Benefits Security Administration, Office of Research and Analysis, Attention: PRA Officer, 200 Constitution Avenue NW, Room N-5718, Washington, DC 20210, or ebsa.opr@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Current Actions

This notice requests public comment on the Department's request for extension of the Office of Management and Budget's (OMB) approval of ICRs contained in the rules and

prohibited transaction exemptions described below. This action is not related to any pending rulemakings and the Department is not proposing any changes to the existing ICRs at this time. An agency may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a valid OMB control number. A summary of the ICRs and the burden estimates follows:

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Notice of Special Enrollment Rights under Group Health Plans.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210-0101.

Affected Public: Private sector, Businesses or other for-profits, Not-for-profit institutions.

Respondents: 2,007,298.

Responses: 8,618,763.

Estimated Total Burden Hours: 552.

Estimated Total Burden Cost (Operating and Maintenance): \$430,938.

Description:

Section 701(f) of the Employee Retirement Income Security Act (ERISA) provides special enrollment rights to individuals who have previously declined health coverage offered to them to enroll in health coverage upon the occurrence of specified events, including when they lose other coverage, when employer contributions to the cost of other coverage cease, and when they marry, have a child or adopt a child (“special enrollment events”). Plans and issuers are required to provide for 30-day special enrollment periods following any of these events during which individuals who are eligible but not enrolled have a right to enroll without being denied enrollment or having to wait for a late enrollment opportunity (often called “open enrollment”).

A group health plan may require, as a pre-condition to having a special enrollment right to enroll in group health coverage after losing eligibility under other coverage, that an employee or beneficiary who declines coverage provide the plan a written statement declaring whether he

or she is declining coverage because of having other coverage. Failure to provide such a written statement can then be treated as eliminating the individual's right to special enrollment upon losing eligibility for such other coverage. The regulations further establish that the right to special enroll can be denied in such circumstances only if employees are given notice of the requirement for a written statement and the consequences of failing to provide the written statement at the time an employee declines enrollment. As part of the special enrollment notice, it must be given at or before the time the employee is initially offered the opportunity to enroll.

This information collection request covers the requirement in the implementing regulations under section 701(f) for a special enrollment notice. This information collection implements the disclosure obligation of a plan to inform all employees, at or before the time they are initially offered the opportunity to enroll in the plan, of the plan's special enrollment rules. The regulations require plans and their issuers to provide all employees with a notice describing their special enrollment rights, whether or not they enroll.

The Department has received approval from OMB for this ICR under OMB Control No. 1210-0101. The current approval is scheduled to expire on August 31, 2025.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Annual Report for Multiple Employer Welfare Arrangements Form M-1

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210-0116.

Affected Public: Private sector, Business or other for profits, Not-for-profit institutions.

Respondents: 719.

Responses: 719.

Estimated Total Burden Hours: 1,839.

Estimated Total Burden Cost (Operating and Maintenance): \$0.

Description:

The Health Insurance Portability and Accountability Act of 1996 (HIPAA), codified as part 7 of title I of the Employee Retirement Security Act of 1974 (ERISA), was enacted to improve the portability and continuity of health care coverage for participants and beneficiaries of group health plans. HIPAA also added section 101(g) to ERISA, providing the Secretary of Labor (Secretary) with authority to require, by regulation, multiple employer welfare arrangements (MEWAs) as defined in section 3(40) of ERISA, that offer or provide coverage for medical benefits but which are not group health plans (non-plan MEWAs), to report annually for the purpose of determining compliance with part 7 requirements. While the statutory authority was directed at non-plan MEWAs, based on the authority in ERISA sections 101(g), 505, and 734, the Department of Labor (Department) in 2003 promulgated a regulation at 29 CFR 2520.101-2 that required the administrators of both plan MEWAs and non-plan MEWAs that offer or provide coverage for medical benefits, as well certain entities that claim not to be a MEWA solely due to the exception in section 3(40)(A)(i) of ERISA (referred to as “Entities Claiming Exception” or “ECEs”), to file the Form M-1 on an annual basis (Form M-1 annual report).

The Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010 (these are collectively known as the “Affordable Care Act” or “ACA”) amended section 101(g) of ERISA to require non-plan MEWAs that provide benefits consisting of medical care to register with the Secretary before operating in a State. In 2011, the Department amended the Form M-1 reporting regulations to enact the ACA required provisions by requiring all MEWAs (plan and non-plan MEWAs) that offer or provide coverage for medical benefits and ECEs to register with the Secretary upon occurrence of certain registration events, such as prior to operating in a State, in addition to continued reporting on an annual basis regarding compliance with part 7 of ERISA.

The Department has received approval from OMB for this ICR under OMB Control No. 1210-0116. The current approval is scheduled to expire on August 31, 2025.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Employee Retirement Income Security Act of 1974 Investment Manager

Electronic Registration.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210-0125.

Affected Public: Private sector, Business or other for profits, Not-for-profit institutions.

Respondents: 3.

Responses: 3.

Estimated Total Burden Hours: 3.

Estimated Total Burden Cost (Operating and Maintenance): \$230.

Description:

Section 203A(a) of the Investment Advisers Act of 1940 (and the implementing SEC regulations) provides thresholds for when investment advisers must register with the SEC or with one or more states

To qualify as investment manager under ERISA, investment advisers that register with a state, rather than with the SEC, must satisfy ERISA's section 3(38) requirement to file a copy of the State registration with the Department by electronically registering through the Investment Adviser Registration Depository (IARD). This is a centralized electronic filing system operated by the SEC in conjunction with State securities regulation authorities. Because the IARD was established by the SEC and the states, and made mandatory for advisers required to file with SEC, and because all States permit filing through IARD even for advisers who do not file with SEC, the Department determined that use of the IARD would eliminate the duplication of filing paper copies of State registration forms with the Department and facilitate creation of a uniform and efficient “one-stop” filing system for state-registered filings by advisers who wished to meet the “investment manager” definition of ERISA section 3(38).

The Department has received approval from OMB for this ICR under OMB Control No. 1210-0125. The current approval is scheduled to expire on August 31, 2025.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Multiple Employer Welfare Arrangement Administrative Law Judge Administrative Hearing Procedures.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210-0148.

Affected Public: Private sector, Business or other for profits, Not-for-profit institutions.

Respondents: 10.

Responses: 10.

Estimated Total Burden Hours: 20.

Estimated Total Burden Cost (Operating and Maintenance): \$686,900.

Description:

Section 521 of ERISA, 29 U.S.C. 1151, provides that the Secretary of Labor may issue ex parte cease and desist orders when it appears to the Secretary that the alleged conduct of a multiple employer welfare arrangement (MEWA) under section 3(40) of the Act, 29 U.S.C. 1002(40), is fraudulent, or creates an immediate danger to the public safety or welfare, or is causing or can be reasonably expected to cause significant, imminent, and irreparable public injury. Section 521(b) provides that a person that is adversely affected by the issuance of a cease and desist order may request an administrative hearing regarding the order. The Department has promulgated a final regulation that is the subject of this information collection request, which describes the procedures before an administrative law judge (ALJ) when a person seeks an administrative hearing for review of such an order.

Under section 2571.3 of the rule, the party that is subject to a cease and desist order issued under ERISA section 521 has the burden to initiate an adjudicatory proceeding before an ALJ. Section 2571.3 governs the service of documents necessary to initiate ALJ proceedings by

such a party on the Secretary of Labor and the ALJ. The Department has received approval from OMB for this ICR under OMB Control No. 1210-0148. The current approval is scheduled to expire on August 31, 2025.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Alternative Reporting Methods for Apprenticeship and Training Plans and Top Hat Plans.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210-0153.

Affected Public: Private sector, Business or other for profits, Not-for-profit institutions.

Respondents: 1,800.

Responses: 1,800.

Estimated Total Burden Hours: 300.

Estimated Total Burden Cost (Operating and Maintenance): \$0.

Description:

Section 2520.104-22 provides an exemption to the reporting and provision of part 1 of title I of ERISA for employee welfare benefit plans that provide exclusively apprenticeship and training benefits if the plan administrator meets the following requirements: (1) Files a notice with the Secretary that provides the name of the plan, the plan sponsor's Employer Identification Number, the plan administrator's name, and the name and location of an office or person from whom interested individuals can obtain certain info about courses offered by the plan; and (2) takes steps reasonably designed to ensure that the information required to be contained in the notice is disclosed to employees of employers contribution to the plan who may be eligible to enroll in any course of study sponsored or establish by the plan; (3) and makes the notice available to employees upon request.

Under 2520.14-23, the Department provides an alternative method of compliance with the reporting and disclosure of Title I of ERISA for unfunded or insured plan established for a

select group of management of highly compensated employees (*i.e.*, top hat plans). In order to satisfy the alternative method of compliance, the plan administrator must file a statement with the Secretary of Labor that includes the name and address of the employer, the employer EIN, a declaration that the employer maintains a plan or plans primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees, and a statement of the number of such plans and the employees covered by each. Plan documents must be made available to the Secretary upon request, and only one statement needs to be filed for each employer maintaining one or more of the plans. The 2019 final rule requires electronic filing with the Secretary through EBSA's website in accordance with instructions published by the Department.

The Department has received approval from OMB for this ICR under OMB Control No. 1210-0153. The current approval is scheduled to expire on August 31, 2025.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Securities Lending by Employee Benefit Plans, Prohibited Transaction Exemption 2006-16.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210-0065.

Affected Public: Private sector, Business or other for profits.

Respondents: 182.

Responses: 1,820.

Estimated Total Burden Hours: 349.

Estimated Total Burden Cost (Operating and Maintenance): \$18,191.

Description:

In 2006, the Department promulgated a final class exemption, PTE 2006-16, which amended and replaced the exemptions previously provided under PTE 81-6 and PTE 82-63. The final exemption incorporates the exemptions into one renumbered exemption and expands the

categories of exempted transactions to include securities lending to foreign banks and foreign broker-dealers that are domiciled in specified countries and to allow the use of additional forms of collateral, all subject to specified conditions outlined in the exemption.

Among other conditions, the class exemption requires a bank or broker-dealer that borrows securities from a plan to provide the lending fiduciary with its most recent audited financial statement and its most recent unaudited statement if the unaudited statement is more recent than the audited financial statement. The borrower must also represent, at the time the loan is negotiated, that there has been no material adverse change in its financial condition since the date of the most recent financial statement provided to the plan that has not been disclosed to the lending fiduciary. The exemption also requires the loan be made pursuant to a written loan agreement. Individual agreements are not required for each transaction; rather the compensation agreement may be made in the form of a master agreement covering a series of transactions.

The Department has received approval from OMB for this ICR under OMB Control No. 1210-0065. The current approval is scheduled to expire on October 31, 2025.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Prohibited Transaction Class Exemption 1988-59, Residential Mortgage Financing Arrangements Involving Employee Benefit Plans.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210-0095.

Affected Public: Private sector, Business or other for profits, Not-for-profit institutions.

Respondents: 2,289.

Responses: 11,445.

Estimated Total Burden Hours: 7,630.

Estimated Total Burden Cost (Operating and Maintenance): \$10,816.

Description:

Prohibited Transaction Class Exemption (PTE) 88-59, which amended and replaced PTE 82-87, allows employee benefit plans to participate in several different types of residential mortgage financing transactions, provided certain conditions are met. The five categories of transactions permitted under the exemption are: (1) issuance of commitments for the provision of mortgage financing to purchasers of residential dwelling units; (2) receipt by a plan of a fee for the issuance of the commitments; (3) the actual making or purchase of a mortgage loan or participation interest therein pursuant to the commitment; (4) the direct making or purchase of a mortgage loan or participation interest therein without the precondition of a commitment; and (5) the sale, exchange or transfer of a mortgage loan or participation interest therein prior to the maturity date of the instrument, provided that the ownership interest sold, exchanged, or transferred represents the plan's entire interest in such investment.

Among other conditions, the exemption requires a plan to maintain for the duration of any loan made pursuant to this exemption all records necessary to determine whether conditions of the exemption have been met and to make such records available for examination on request by any trustee, investment manager, participant or beneficiary of the plan, or agents of the Department or the IRS.

The Department has received approval from OMB for this ICR under OMB Control No. 1210-0095. The current approval is scheduled to expire on October 31, 2025.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Access to Multiemployer Plan Information.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210-0131.

Affected Public: Private sector, Business or other for profits, Not-for-profit institutions.

Respondents: 2,450.

Responses: 221,478.

Estimated Total Burden Hours: 32,220.

Estimated Total Burden Cost (Operating and Maintenance): \$0.

Description:

Section 101(k)(1) of ERISA requires multiemployer plan administrators to furnish certain documents to any plan participant, beneficiary, employee representative, or any employer that has an obligation to contribute to the plan upon written request. The Department issued a final rule that implements the disclosure requirements of ERISA section 101(k) on March 2, 2010 (75 FR 9334). The documents that may be requested are: (1) A copy of any periodic actuarial report (including sensitivity testing) received by the plan for any plan year which has been in the plan's possession for at least 30 days; (2) a copy of any quarterly, semi-annual, or annual financial report prepared for the plan by any plan investment manager or advisor or other fiduciary that has been in the plan's possession for at least 30 days; and (3) a copy of any application filed with the Secretary of the Treasury requesting an extension under section 304 of ERISA (or section 431(d) of the Internal Revenue Code of 1986) and the determination of such Secretary pursuant to such application.

The information collection provisions of this final regulation are found in 29 CFR 2520.101-6(a), which requires multiemployer defined benefit and defined contribution pension plan administrators to furnish copies of certain actuarial and financial documents to plan participants, beneficiaries, employee representatives, and contributing employers upon request.

This information constitutes a third-party disclosure from the administrator to participants, beneficiaries, employee representatives, and contributing employers for purposes of the PRA. Pursuant to § 2520.101-6(d)(5), the documents required to be disclosed shall not contain any information that the plan administrator reasonably determines to be either: (i) Individually identifiable information regarding any plan participant, beneficiary, employee, fiduciary, or contributing employer, except that such limitation shall not apply to an investment manager or adviser, or with respect to any other person (other than an employee of the plan) preparing a financial report described in paragraph § 2520.101-6(c)(2); or (ii) proprietary

information regarding the plan, any contributing employer, or entity providing services to the plan. The plan administrator must inform the requester if any such information is withheld.

The Department has received approval from OMB for this ICR under OMB Control No. 1210-0131. The current approval is scheduled to expire on October 31, 2025.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: National Medical Support Notice-Part B.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210-0113.

Affected Public: Private sector, Businesses or other for-profits.

Respondents: 381,290.

Responses: 19,352,287.

Estimated Total Burden Hours: 1,215,658.

Estimated Total Burden Cost (Operating and Maintenance): \$6,400,769.

Description:

Pursuant to section 401(a) of the CSPIA, the Department of Labor (the Department) and HHS jointly promulgated the National Medical Support Notice Final Rule on December 27, 2000 (65 FR 82128) (NMSN Regulation). The NMSN Regulation simplifies the issuance and processing of medical child support orders; standardizes communication between State agencies, employers, and Plan Administrators; and creates a uniform and streamlined process for enforcement of medical child support to ensure that all eligible children receive the health care coverage to which they are entitled.

The NMSN Regulation, codified at 29 CFR 2590.609-2, includes a model National Medical Support Notice (NMSN) that is comprised of two parts: part A is a notice from the State agency to the employer, entitled: "Notice to Withhold for Health Care Coverage;" and part B is a notice from the employer to the Plan Administrator, entitled: "Medical Support Notice to Plan Administrator." Both parts have detailed instructions informing the recipient to whom responses

are due depending on varying circumstances. This ICR addresses the Plan Administrator's responsibilities under NMSN Regulation to complete part B of the NMSN, the "Plan Administrator Response," pursuant to the CSPIA and section 609(a)(5)(C) of title I of ERISA.

The "Plan Administrator Response" in part B of the NMSN requires the Plan Administrator to provide information verifying whether the child is or will be receiving health care coverage from the group health plan. If enrollment has already occurred or can begin immediately, the Plan Administrator's response in part B serves as notice to the State agency, the participant (parent), the child, their non-participant parent or guardian and the employer that the child is or will begin receiving dependent health care coverage pursuant to the group health plan. When the child is eligible for more than one coverage option, the Administrator must first send the part B response to the State agency so that the agency may choose one option. The Plan Administrator must also use the part B response to notify all of the above-affected persons of any waiting period before enrollment of the child can occur.

The Department has received approval from OMB for this ICR under OMB Control No. 1210-0113. The current approval is scheduled to expire on November 30, 2025.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: No Surprises Act: IDR Process.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210-0169.

Affected Public: Private sector, Business or other for profits, Not-for-profit institutions.

Respondents: 22,828.

Responses: 163,546.

Estimated Total Burden Hours: 89,520.

Estimated Total Burden Cost (Operating and Maintenance): \$556,147.

Description:

On December 27, 2020, the Consolidated Appropriations Act, 2021 (CAA), which includes the No Surprises Act, was signed into law. The No Surprises Act provides Federal protections against surprise billing and limits out-of-network cost sharing under many of the circumstances in which surprise bills arise most frequently. The CAA added provisions applicable to group health plans and health insurance issuers in the group and individual markets in a new part D of title XXVII of the Public Health Service Act (PHS Act) and also added new provisions to part 7 of the Employee Retirement Income Security Act (ERISA), and subchapter B of chapter 100 of the Internal Revenue Code (Code).

Section 102 of the No Surprises Act added Code section 9816, ERISA section 716, and PHS Act section 2799A-1, which contain limitations on cost sharing and requirements for initial payments for emergency services and for nonemergency items and services furnished by nonparticipating providers at participating health care facilities. In addition, section 103 of the No Surprises Act amended Code section 9816, ERISA section 716, and PHS Act section 2799A-1 to establish a Federal independent dispute resolution (Federal IDR) process that nonparticipating providers or facilities and group health plans and health insurance issuers in the group and individual market may use following the end of an unsuccessful open negotiation period to determine the out-of-network rate for certain services. More specifically, the Federal IDR provisions may be used to determine the out-of-network rate for certain emergency services, nonemergency items and services furnished by nonparticipating providers at participating health care facilities, where an All-Payer Model Agreement or specified State law does not apply. Finally, section 105 of the No Surprises Act created Code section 9817, ERISA section 717, and PHS Act section 2799A-2 which contain limitations on cost sharing and requirements for initial payments for air ambulance services, and allow plans and issuers and providers of air ambulance services to access the Federal IDR process.

The Federal IDR process requires a number of disclosures from plans, issuers, FEHB carriers, and nonparticipating providers or nonparticipating emergency facilities. The

Department has received approval from OMB for this ICR under OMB Control No. 1210-0169.

The current approval is scheduled to expire on November 30, 2025.

II. Focus of Comments

The Department is particularly interested in comments that:

- Evaluate whether the collections of information are 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 collections 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., by permitting electronic submissions of responses.

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

Signed at Washington, DC, this 26th day of December 2024.

Lisa M. Gomez,

Assistant Secretary,

Employee Benefits Security Administration,

U.S. Department of Labor.

[FR Doc. 2024-31607 Filed: 1/3/2025 8:45 am; Publication Date: 1/6/2025]