



DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Affordable Care Act Advance Notice of Rescission

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employee Benefits Security Administration (EBSA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review - Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: Michael Howell by telephone at 202-693-6782, or by email at DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION:

The Patient Protection and Affordable Care Act, Public Law 111-148, (the Affordable Care Act or the Act) was enacted on March 23, 2010. Section 2712 of the Public Health Service Act (PHS Act), as added by the Affordable Care Act, and the Department's final regulation (26 CFR 54.9815-2712, 29 CFR 2590.715-2712, 45 CFR 147.2712) provides rules regarding rescissions of health coverage for group health plans and health insurance issuers offering group or individual health insurance coverage (80

FR 72191). Under the statute and final regulations, a group health plan, or a health insurance issuer offering group or individual health insurance coverage, generally must not rescind coverage except in the case of fraud or an intentional misrepresentation of a material fact. This standard applies to all rescissions, whether in the group, or individual insurance market, or for self-insured coverage. These rules also apply regardless of any contestability period of the plan or issuer.

The PHS Act section 2712 mandated a new advance notice requirement when coverage is rescinded where still permissible. Specifically, the second sentence in section 2712 provides that coverage may not be cancelled unless prior notice is provided, and then only as permitted under PHS Act sections 2702(c) and 2742(b). Under these final regulations, even if prior notice is provided, rescission is only permitted in cases of fraud, or an intentional misrepresentation of a material fact as permitted under the cited provisions.

These final regulations provide that a group health plan, or health insurance issuer offering group health insurance coverage, must provide at least 30 days advance notice to an individual before coverage may be rescinded. The notice must be provided regardless of whether the rescission is of group or individual coverage; or whether, in the case of group coverage, the coverage is insured or self-insured, or the rescission applies to an entire group or only to an individual within the group. For additional substantive information about this ICR, see the related notice published in the *Federal Register* on July 9, 2024 (89 FR 56416).

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and

clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL-EBSA.

Title of Collection: Affordable Care Act Advance Notice of Rescission.

OMB Control Number: 1210-0141.

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

Total Estimated Number of Respondents: 50.

Total Estimated Number of Responses: 700.

Total Estimated Annual Time Burden: 17 hours.

Total Estimated Annual Other Costs Burden: \$228.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Michael Howell,

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