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DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Notice of Special Enrollment Rights under Group Health Plans

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:

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. For additional substantive information about this ICR, see the related notice published in the *Federal Register* on January 6, 2025 (90 FR 671).

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: Notice of Special Enrollment Rights under Group Health Plans.

OMB Control Number: 1210-0101.

Affected Public: Private sector.

Total Estimated Number of Respondents: 2,588,300.

Total Estimated Number of Responses: 10,585,910.

Total Estimated Annual Time Burden: 0 hours.

Total Estimated Annual Other Costs Burden: \$ 110,358.

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

Michael Howell,

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