

**Supporting Statement for Early Retiree Reinsurance Program PRA Information Collection
Package and Accompanying Instructions**

**OMB #
HHS--**

A. Background

Under the Section 1102 of the Patient Protection and Affordable Care Act 2010 and implementing regulations to be codified at 45 CFR Part 149, employment-based plans that offer health benefits to early retirees and their spouses, surviving spouses and dependents are eligible under a temporary program to receive a tax-free reimbursement for the costs of certain health benefits for such individuals. In order to qualify, plan sponsors must submit a complete application to the Department of Health and Human Services. In order to receive reimbursement under the program, they must also submit documentation of actual costs for health care benefits, which consists of documentation of actual costs for the items and services involved, and a list of individuals to whom the documentation applies. Once HHS reviews and analyzes the information on the application, notification will be sent to the plan sponsor about its eligibility to participate in the program. Once HHS reviews and analyzes each reimbursement request, reimbursement under the program will be made to the sponsor, as appropriate. The program's funding is limited to \$5 billion, and the program sunsets on January 1, 2014.

B. Justification

1. **Need and Legal Basis**

Under the Section 1102 of the Patient Protection and Affordable Care Act 2010 Act of 2010 and implementing regulations to be codified at 45 CFR Part 149, employment-based plans that offer health benefits to early retirees and their spouses, surviving spouses and dependents are eligible under a temporary program to receive a tax-free reimbursement for the costs of certain health benefits for such individuals. In order to qualify, plan sponsors must submit a complete application to the Department of Health and Human Services. In order to receive reimbursement under the program, they must also submit documentation of actual costs for health care benefits, which consists of documentation of actual costs for the items and services involved, and a list of individuals to whom the documentation applies. Once HHS reviews and analyzes the information on the application, notification will be sent to the plan sponsor about its eligibility to participate in the program. Once HHS reviews and analyzes each reimbursement request, reimbursement under the program will be made to the sponsor, as appropriate.

2. **Information Users**

HHS will contract with an outside contractor(s) to assist in the administration of the program. Initially, the plan sponsor may submit a hard copy application, until an online application is developed by the contractor. Plan sponsors will apply online for the program by logging on to the program's secure website. Once the plan sponsor submits the program's application via the secure website, HHS will analyze the application to determine whether the sponsor qualifies for the program. If so, in order to receive reimbursement under the program, they must also submit documentation of actual costs for health care benefits, which consists of documentation of actual costs for the items and services

involved, and a list of individuals to whom the documentation applies.

3. Use of Information Technology

The application process for the program may initially be a paper process, until an electronic process is developed soon thereafter. The basis for the decision for adopting this means of collection was to maximize efficiencies. The plan sponsor will complete and submit the program application (including the plan sponsor's Authorized Representative's electronic signature) online, via the program's secure website. This collection will require the signature of the plan sponsor's Authorized Representative. The electronic signature will be collected electronically, once an online program application is developed. We do not yet have an approximate date when the online application will be utilized. It depends on when a contractor can develop the online application. The collection is currently not available for completion electronically. It is also expected that sponsors will make reimbursement requests using the secure website.

4. Duplication of Efforts

The data to be collected on the application and in reimbursement requests are not currently being collected through any other mechanism. Therefore, this information collection does not duplicate any other effort and the information cannot be obtained from any other source.

Consideration has been given to the duplication the submission of the application. With this consideration in mind, plan sponsors will not be required to submit a separate application for each year they wish to participate in the program. Rather, in the first application a sponsor submits, it will specify its plan year cycle. (i.e., its plan year start month and day and end month and day).

5. Small Businesses

HHS has made efforts to minimize the burden that this collection of information will have on all submitting entities including small businesses. Towards this end, HHS has made the entire application process completely electronic (following a paper application process during the program's early months). The plan sponsor will complete and submit the program application (including the plan sponsor's Authorized Representative's electronic signature) online via the program's secure web site. The benefits of receiving the program's reimbursement payments will far exceed the cost associated with applying for the program (to the extent the limited program funds permit).

6. Less Frequent Collection

A sponsor need only submit one application per employment-based health plan, regardless of how many years the sponsor wishes to participate in the program. Also, the sponsor need only make one reimbursement request for each application per plan year.

7. Special Circumstances

A sponsor would have to report information to HHS more often than quarterly, only in the unlikely event that a sponsor changed ownership more frequently than quarterly, as every change of ownership must be reported.

There are no special circumstances where sponsors would be required to prepare a written response to a collection of information in fewer than 30 days after receipt of it.

There are no special circumstances where sponsors would be required to submit more than an original and two copies of any document.

There are special circumstances that would cause an information collection to be conducted which would require sponsors to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years. Program implementing regulations require that sponsors maintain the following records for 6 years after the expiration of the plan year in which costs were incurred:

1. All documentation, data, and other information related to 45 CFR Part 49, and any other records specified by the Secretary.
2. Any other records specified in additional CMS guidance.

-
There are no special circumstances that would cause an information collection 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.

There are no special circumstances that would cause an information collection requiring the use of a statistical data classification that has not been reviewed and approved by OMB.

There are no special circumstance 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.

There are no special circumstances where sponsors would be required to submit proprietary trade secrets, 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.

8. Federal Register/Outside Consultation

We are requesting Federal Register comment period as part of this Emergency PRA submission. This will be announced in the preamble to the interim final rule that displayed on April 30, 2010. Our solicitation of comments constitutes our 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, and on the data elements to be recorded, disclosed, or reported.

In addition, HHS may periodically conduct industry focus groups to continue to improve the operations of the program.

9. Payments/Gifts to Respondents

There are no payments or gifts to respondents.

10. Confidentiality

We are assuring potential applicants to the ERRP that laws, regulations, and guidance associated with the Health Insurance Portability and Accountability Act (HIPAA) of 1996, and the Privacy Act of 1974 (as amended) will apply to any information collected by HHS for purposes of this program.

The regulations governing the program will require that officers, employees, and contractors of the U.S. Department of Health & Human Services (HHS) may use information collected for the program only for the purposes of, and to the extent necessary, to carry out the requirements of the program. We have assured on an ongoing basis that any proprietary information submitted by applicants will not be disclosed.

11. Sensitive Questions

No questions of a sensitive nature, such as sexual behavior and attitude and religious beliefs are asked.

12. Burden Estimates (Hours & Wages)

For each entity we estimate an average burden of 227 hours to comply with the information collection requirements specified in the regulation at 45 C.F.R. Part 149, for the first year of the program (with the burden decreasing in subsequent years). The first-year hour burden is broken down as follows:

Submitting Application (35 hours)

- Reading instructions: 2 Hours
- Calculating program reimbursement projections: 24 hours
- Completing application: 9 hours

Develop, sign and maintain written agreement(s) with health insurance issuer or employment-based plan regarding disclosure of information, data, documents, and records to the Secretary (3 hours)

- Develop and sign written agreements: 2 hours, 45 minutes
- Maintain agreements: 15 minutes

Develop, implement, and maintain policies and procedures to protect against fraud, waste, and abuse (60 hours)

- Develop and implement policies and procedures: 54 hours
- Maintain policies and procedures: 6 hours

Submitting Reimbursement Requests (90 hours)

- Reading Instructions: 2 hours
- Extract and compile identifying information on early retirees, spouses, surviving spouses, and dependents for whom a reimbursement request is being made: 30 hours
- Extract and compile documentation of actual costs of health benefits for which claims are being submitted, for each early retiree, spouse, surviving spouse, and dependent for whom a reimbursement request is being made: 58 hours

Reporting Data Inaccuracies (32 hours)

- Researching the data: 24 hours
- Compiling and reporting the data: 8 hours

Report Sponsor Change of Ownership (1 hour)

- Report details any of change of ownership: 40 minutes
- Complete any paperwork associated with change of ownership: 20 minutes

Maintaining and Furnishing Records to the HHS Secretary (6 hours)

- Maintaining records: 1 hour
- Furnishing records: 5 hours

For estimates of annualized costs to respondents for the hour burdens above, and for estimates of the reduced hourly burden and annualized costs for subsequent program years, see the Information Collection section of the Early Retiree Reinsurance Program Interim Final Rule that displayed on April 30, 2010.

13. Capital Costs

(a) Total Capital and Start-up Cost

We have determined that there are no new capital outlays required to participate in the program. We have assumed that all businesses will own at least one computer and have access to the internet.

(b) Total Operation and Maintenance and Purchase of Service Component

We estimate that there may be expenses associated with hiring of vendors to assist plan sponsors in gathering and aggregating health benefit cost data for early retirees and their spouses, surviving spouses, and dependents and complying with ongoing information sharing requirements. Those expenses are subsumed in the burden estimates discussion contained in Section 12 of this paper.

14. Cost to Federal Government

The cost to the Federal Government is estimated to be \$20 million annually. This amount includes the costs of 14 HHS full time employees (FTEs) and the necessary contractors to support the implementation of the program. In order to not introduce unnecessary risk to the Federal Government's procurement strategy, more granular Federal Government cost estimates are not being provided at this time.

15. Change to Burden

N/A

16. Publication/Tabulation Dates

A very limited portion of the collection of information on the program application may be published.

Specifically, a list of the names of the plan sponsors identified on the applications may be periodically published and posted on the HHS and/or ERRP Web Site. The time schedule for such publication has yet to be determined. HHS does not intend to publish any additional information provided by sponsors.

17. Expiration Date

This data information contains a data collection instrument to be used for several years or longer. Therefore, HHS would like an exemption from displaying the expiration date as this form is used on a continuing basis.

18. Certification Statement

There are no exceptions to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.