

Non-Substantive Change Request to CMS-10379 (OMB Control Number: 0938-1141)

This is a non-substantive change request to CMS-10379 (hereinafter the Rate Review ICR) to allow CMS to clarify the information that issuers submit through the Rate Filing Justification process. The Rate Review ICR states that health insurance issuers are required to submit a Rate Filing Justification to both CMS and states for proposed rate increases. The Rate Filing Justification includes three Parts. Part I consists of detailed claims and premium quantitative data, collected in a unified rate review template (URRT) to actuarially represent any rate increase and justify proposed increases above the review threshold. Part II of the Rate Filing Justification is a brief written explanation of any rate increase exceeding the review threshold. Part III of the Rate Filing Justification consists of an Actuarial Memorandum providing narrative reasoning of the assumptions and methods utilized to complete Part I. Parts I and III are required to be completed and submitted any time for all rate increases the issuer has in a state. Part II, along with Parts I and III, is only submitted to CMS and the applicable state when the review threshold is exceeded.

Pursuant to 45 CFR § 154.215(h)(2), CMS will make available to the public on its website the information contained in each Rate Filing Justification that is not a trade secret or confidential commercial or financial information and is approved for release under the Freedom of Information Act. The Rate Review ICR stated that, in accordance with the HHS's FOIA implementing regulations at 45 CFR § 5.65(c), health insurance issuers may designate part or all of the information submitted as exempt from disclosure under Exemption 4 of the FOIA if the issuer believes the information is commercial or financial information that is confidential or privileged. If the information has previously been published or made generally available to the public, it will not be considered confidential or privileged for purposes of Exemption 4. The public had opportunity to comment on this requirement during the Rate Review ICR comment period.

Health insurance issuers submit the Rate Filing Justification electronically through the Health Insurance Oversight System (HIOS). The Rate Review PRA included HIOS instructions and HIOS screenshots that required issuers to submit two Part III documents: a "Public" and an "HHS Review Only" version. The public had opportunity to comment on these HIOS instructions.

We would like to clarify that health insurance issuers must submit a redacted "public" Part III in addition to the unredacted "CMS" Part III. In the redacted Part III, issuers would designate if any part of the information submitted was a trade secret or confidential commercial or financial information that the health insurance issuer believes should be exempt from disclosure under Exemption 4 of the FOIA. The redacted Part III would facilitate CMS' determination regarding the release of information under the FOIA law. CMS intends to make publicly available on its

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website the information contained in each Part III that has not been determined to be a trade secret or confidential commercial or financial information exempt from disclosure under Exemption 4.

The burden related to the Rate Filing Justification is in the Rate Review PRA. The Rate Review PRA estimated that the burden per rate filing submission is 11 hours, which includes Part III. The burden remains unchanged. The original PRA estimated that the burden was 11 hours, which included submission of a redacted and unredacted Part III. Therefore, the current estimate of 11 hours assumes the submission of a redacted and unredacted Part III. This non-substantive change clarifying that issuers must submit a redacted Part III results in no increased burden for issuers.

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