

burden, the Department of Labor conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, EBSA is soliciting comments concerning the proposed information collection request (ICR) included in this Notice of Proposed Rulemaking with respect to the Health Care Continuation Coverage Provisions of Part 6 of title I of ERISA. A copy of the ICR may be obtained by contacting the PRA addressee shown below.

The Department has submitted a copy of the proposed information collection to OMB in accordance with 44 U.S.C. 3507(d) for review of its information collections. The Department and OMB are particularly interested in comments that:

- Evaluate whether the proposed collection of information is 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 burden of the collection 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., permitting electronic submission of responses.

Comments should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Attention: Desk Officer for the Employee Benefits Security Administration. Although comments may be submitted through July 28, 2003, OMB requests that comments be received within 30 days of publication of the Notice of Proposed Rulemaking to ensure their consideration.

*PRA Addressee:* Address requests for copies of the ICR to Joseph S. Piacentini, Office of Policy and Research, U.S. Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue, NW., Room N-5718, Washington, DC 20210. Telephone (202) 693-8410; Fax: (202) 219-5333. These are not toll-free numbers.

The Department is issuing these proposed rules to set minimum standards for the timing and content of the notices required under the continuation coverage provisions of Part 6 of title I of ERISA, and to establish uniform standards for administering the notice process. In very general terms, the statute requires that qualified beneficiaries be offered the opportunity to elect to continue group health coverage after losses of coverage due to death of the employee, termination of employment or reduction of hours, divorce or legal separation of the covered employee from the employee's spouse, the covered employee's becoming entitled to Medicare, or bankruptcy of an employer that affects covered retirees. Qualified beneficiaries may include employees, the spouse of a covered employee and dependent children of the covered employee. Coverage can extend for 18 or 36 months, depending on the nature of the qualifying event. The plan administrator must notify COBRA participants when their coverage is terminated earlier than its maximum duration. Additional distributions of notices may be required when a COBRA enrollee experiences a second qualifying event.

Each of the sections of the proposed regulations includes an information collection request. The specific regulatory requirements of each section are described in detail earlier in this preamble. The information collection provisions are identified and very briefly described below. The actual provisions of the proposed regulation rather than this summary should be referred to for COBRA compliance purposes.

*Section 2590.6061—General Notice.* This section describes the plan administrator's obligation to provide a general notice of COBRA rights to participants and their spouses who newly become covered under a group health plan. These general notices may be included in the Summary Plan Description. A model general notice has been drafted to assist plan administrators with compliance and reduce compliance burden.

*Section 2590.6062—Employer's notice of qualifying event.* These notices are required to be provided by

employers to plan administrators whenever a qualifying event occurs that is an employee's termination of employment or reduction of hours, death, or enrollment in Medicare.

*Section 2590.6063—Qualified beneficiary's notices.* Qualified beneficiaries are responsible for notifying the plan administrator of a qualifying event that is the divorce or legal separation of the employee and spouse, or a dependent's becoming no longer eligible for coverage as a dependent under the plan.

*Section 2590.6064—Plan administrator's notice obligations.* Plan administrators are required to notify each qualified beneficiary who is entitled to elect continuation coverage of his or her rights under COBRA. Paragraph (d) requires specific notice to be provided to qualified beneficiaries in the event that the administrator terminates continuation coverage prior to the end of its maximum duration. A single notice may be sent to multiple qualifying beneficiaries known to reside at a single address, although they each have separate COBRA election rights. A model election notice has been drafted to assist with compliance and reduce compliance burden.

In order to estimate the burden of compliance with the statute and these proposed rules, the Department used data from several sources and made a number of assumptions. It should be noted that this Paperwork Reduction Act analysis includes the cost of the statute as well as the cost of the discretion exercised in this rulemaking. These costs were developed in the manner described below.

In order to develop estimates of the cost of the review, revision, development, and distribution of COBRA notices, it was first necessary to determine the numbers of participants and dependents in plans that are required to offer COBRA coverage (generally plans with 20 or more participants), the numbers of dependents who reside at addresses that are different from other related participants, and the rates of the occurrence of the qualifying events that give rise to notice obligations. The participants and dependents identified in available data sets represent the group of qualified beneficiaries who will have qualifying events. Estimates of the number of entities such as group health insurance issuers and professional administrators that would review their COBRA notices, the number that would consequently revise their COBRA notices, and the time required to do so for each type of notice was also required.