

The Department developed its estimates of 55,778,300 employees and 55,002,439 dependents, 67,000 of whom reside at different addresses, and 2,461,000 COBRA enrollees from the February and March 2001 Current Population Survey (CPS; Census Bureau household surveys), the 2000 Medical Expenditure Panel Survey, Household and Insurance Components (MEPS; joint Census Bureau and Agency for Healthcare Policy and Research surveys of households and private establishments), and the 1996 Panel of the Survey of Income and Program Participation (SIPP; a Census Bureau longitudinal household survey). Frequency rates for qualifying events were also developed from MEPS and SIPP.

An estimate of the number of plans covering these employees and dependents was also needed. About 50,000 group health plans file the Form 5500—Annual Return/Report of Employee Benefit Plan. These are generally plans with 100 or more participants that are defined for purposes of regulatory analyses as large plans. Because the majority of small group health plans are not required to file Form 5500, the number of such plans must be estimated from other data sources. CPS and MEPS data can be used to derive an estimate of the number of establishments that offer group health coverage by size of establishment. The establishments with fewer than 20 employees can be excluded based on establishment size variables. While the count of establishments with 20 to 99 employees that do offer coverage will vary to some degree from a count of plans because some plans include multiple establishments, it is considered to offer a reasonable proxy for the number of small plans and the distribution of participants and dependents between large and small plans. Using this approach, it can be assumed that these proposed rules would affect a total of about 415,000 plans, 50,000 of which are large, and 365,000 of which are small. The number of participants in large plans is estimated at 43.5 million. The number of participants in small plans is estimated to be 12.3 million.

The Department has assumed that all administrators for these plans will review their existing forms and procedures in response to promulgation of this guidance, and that some of those plan administrators will additionally need to revise their notices and procedures. The Department is aware that, for a large majority of plans, administration of COBRA general notices and election notices is

performed by service providers rather than the plans themselves. In order to derive an estimate of the number of entities that will review forms and procedures, the Department looked at the number of health insurers offering group products and the number of professional administrators providing services to group health plans. This results in an estimate of about 3,000 entities that perform COBRA administration for the majority of all plans. All of these entities are expected to review all of their notices and procedures in response to regulatory guidance.

These reviews are assumed to require 2 hours each for the general notice and election notice requirements, and 1 hour each for the employer notice requirements, the employee notice requirements, and for development of a new notice of early termination of COBRA coverage. Employer and employee notices may need to be developed. These 3,000 reviews are expected to be conducted by professionals at the level of financial managers at a cost of \$68 per hour.<sup>20</sup> No cost has been included for the new notice of unavailability of continuation coverage because there is currently no basis for determining the number of these notices that might be sent. The Department has assumed, however, that due to the clear and consistent information provided in the general notice, plan administrators will distribute a limited number of these notices annually, and that the associated cost would be very small.

In order to estimate the number of service providers that would be required to revise their existing notices, the Department examined its data pertaining to the nature of telephone inquiries it receives. These data show that about 59,000 inquiries pertaining to COBRA are received each year. Although the portion of these inquiries that pertain to notice provisions is unknown, as is the number of COBRA notification issues that do not give rise to contact with the Department, this number provides the only available proxy for a rate of notice-related difficulties. Given the roughly 5 million COBRA election notices provided each year, the rate of notice inadequacies is assumed to be about 1%. The actual rate might range from .5% to 1% because inquiries do pertain to issues other than

notices, but 1% has been used for purposes of these estimates.

For the purpose of determining the number of service providers involved in preparing and distributing the 1% of COBRA notices that may require revision, the Department took into consideration the fact that service providers are known to use standardized forms, and that a small number of service providers are known to provide COBRA administration to a very large number of plans. Reasoning that the rate of notice inadequacies would be higher if the providers serving the majority of plans made use of notices and procedures that were not adequate as to content and timing, the Department assumed that more than 1% of the providers to the remaining fewer plans would be required to revise notices and procedures. Although the actual number is not known, the Department has assumed that 3%, or 90, service providers will need to make revisions. Modification is assumed to require an additional two hours at \$68 for each notice in use.

The start-up costs that arise from this proposal pertain to the review and revision of existing forms and procedures and the development of the new early termination notices. The cost of distribution of the termination notices will be an ongoing operating cost.

Ongoing operating costs arise from completing the forms upon the occurrence of each event that gives rise to a notice obligation with information specific to the dates, plan, employee, spouse, or dependent children, and from distributing the completed forms. No completion or distribution cost is attributed to the general notice, except where dependents reside at separate addresses, as the required information is expected to be included in the Summary Plan Description. No burden is included for completing the employer's notices because they involve adding information that the employer has at hand in its customary personnel practices. Similarly, no completion burden is calculated for the qualified beneficiaries' notices because this information is limited, readily accessible, and would be provided as a usual practice by only the qualified beneficiary who wished to continue coverage. Otherwise, the cost of completion of notices is expected to be incurred at a rate of \$34 per hour for 5 minutes for election notices and 1 minute for termination notices.

Postage and materials for distribution are estimated at \$0.38 per notice. No assumption has been made as to the number of these notices that will be

<sup>20</sup> Wage rates are based on National Occupational Employment and Wage Estimates from the Occupational Employment of the Bureau of Labor Statistics for 2000, adjusted for compensation rate growth, additional compensation costs, and overhead.