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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS-10265]

Agency Information Collection Activities: Proposed Collection;
Comment Request

AGENCY: Centers for Medicare & Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. Type of Information Collection Request: New collection; Title of Information Collection: Mandatory Insurer Reporting Requirements of Section 111 of the Medicare, Medicaid and SCHIP Act of 2007 (MMSEA) (Pub. L. 110-173); Use: Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007 (Pub. L. 110-173) amends the Medicare Secondary Payer (MSP) provisions of the Social Security Act (42 U.S.C. 1395y(b)) to provide for mandatory reporting by group health plan arrangements and by liability insurance (including self-insurance), no-fault insurance, and workers' compensation laws and plans. The law provides that, notwithstanding any other provision of law, the Secretary of Health and Human Services may implement this provision by program instruction or otherwise. The Secretary has elected not to implement the provision through rulemaking and will implement by publishing instructions on a publicly available Web site and submitting an information collection request to OMB for review and approval of the associated information collection requirements.

Effective January 1, 2009, as required by the MMSEA, an entity serving as an insurer or third party administrator for a group health plan and, in the case of a group health plan that is self-insured and self-administered, a plan administrator or fiduciary must: (1) Secure from the plan sponsor and plan participants such information as the Secretary may specify to identify situations where the group health plan is a primary plan to Medicare; and (2) report such information to the Secretary in the form and manner (including frequency) specified by the Secretary.

Effective July 1, 2009, as required by the MMSEA, ``applicable plans,`` must: (1) Determine whether a claimant is entitled to Medicare benefits; and, if so, (2) report the identity of such claimant and provide such other information as the Secretary may require to properly coordinate Medicare benefits with respect to such insurance arrangements in the form and manner (including frequency) as the Secretary may specify after the claim is resolved through a settlement, judgment, award or other payment (regardless of whether or not there is a determination or admission of liability). Applicable plan refers to the following laws, plans or other arrangements, including the fiduciary or administrator for such law, plan or arrangement: (1) Liability insurance (including self-insurance); (2) No-fault

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insurance; and (3) Workers' compensation laws or plans.

As indicated, the Secretary has elected to implement this provision by publishing instructions at a Web site established for such purpose. The Web site is <http://www.cms.hhs.gov/MandatoryInsRep/>. CMS shall use this Web site to publish preliminary guidance as well as the final instructions. The Web site also advises interested parties how to comment on the preliminary guidance. Form Number: CMS-10265 (OMB 0938-New); Frequency: Yearly; Affected Public: Business or other for-profits, Not-for-profit institutions and State, Local or Tribal Governments; Number of Respondents: 290,404; Total Annual Responses: 6,920,504; Total Annual Hours: 2,120,478.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site at <http://www.cms.hhs.gov/PaperworkReductionActof1995>, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to Paperwork@cms.hhs.gov, or call the Reports Clearance Office on (410) 786-1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by September 30, 2008:

1. Electronically. You may submit your comments electronically to <http://www.regulations.gov>. Follow the instructions for ``Comment or Submission`` or ``More Search Options`` to find the information collection document(s) accepting comments.

2. By regular mail. You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB

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