24 CFR Part 841

[Docket No. N-80-981]

Public Housing Program Development Phase; Prototype Cost Limits for Low-Income Public Housing

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner.

ACTION: Notice of Prototype Cost Determination.

SUMMARY: On June 6, 1979, the Department published a revised schedule of "Prototype Cost Limits for Low-Income Public Housing." After consideration of additional factual data, revisions are necessary to increase per unit prototype cost limits for five areas in the State of Pennsylvania.

EFFECTIVE DATE: March 4, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Jack R. VanNess, Director, Technical Support Division, Office of Public Housing—Room 6248, 451 7th Street, SW., Washington, D.C. 20410, (202) 755-4956 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The United States Housing Act of 1937 requires determination by HUD of the costs in different areas for construction and equipment (prototype costs) of new dwelling units suitable for occupancy by low-income families.

The prototype costs constitute a limit on development cost for construction and equipment of new public housing projects.

These schedules establish per unit limits on prototype costs (dwelling construction and equipment) for development of low-income public housing under the United States Housing Act of 1937. Section 6(b) of the Act provides that the prototype costs shall be effective upon the date of publication in the **Federal Register**, and this Notice is, therefore, made effective March 4, 1980.

Timely written comments will be considered and additional amendments will be published if the Department determines that acceptance of the comments is appropriate. Comments with respect to cost limits for a given location should be sent to the address indicated above.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969, has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, 451 7th Street, SW., Washington, D.C. 20410.

Accordingly, the per unit cost schedules setting Prototype Cost Limits for Low-Income Housing are amended as follows:

1. At 44 FR 32528 and 32529, revise the prototype per unit cost schedule for detached and semi-detached, row and walk-up dwellings, as shown on the prototype per unit cost schedule, Region III, Altoona, Erie, Johnstown, New Castle, and Sharon, Pennsylvania.

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)); sec. 6(b), U.S. Housing Act of 1937 (42 U.S.C. 1437(d)))

Issued at Washington, D.C., on February 25, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

Region III

Altoona	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Detached and semidetached	21,300	25,550	28,350	33,700	40,400	45,100	47,100
Row dwellings	20,200	24,400	26,750	32,000	38,450	42,850	44,750
Walkup	17,800	21,900	25,200	29,700	34,350	37,850	39,800
Elevator-structure							

Erie	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Detached and semidetached	22,100	26,500	29,300	34,900	42,000	46,750	48,800
Row dwellings	21,050	25,200	27,700	32,850	39,750	44,400	46,250
Walkup	17,650	21,800	25,000	29,500	34,200	37,700	39,600
Elevator-structure							

Johnstown	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Detached and semidetached	21,250	25,500	28,300	33,600	40,350	45,050	47,050
Row dwellings	20,050	24,050	26,500	31,500	38,150	42,350	44,200
Walkup	17,650	21,850	25,000	29,500	34,200	37,700	39,600
Elevator-structure							

New Castle	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Detached and semidetached	21,250	25,500	28,300	33,600	34,200	45,050	47,050
Row dwellings	20,200	24,200	26,700	31,800	38,350	42,700	44,550
Walkup	17,630	21,850	25,000	29,500	34,200	37,700	39,600
Elevator-structure							

Sharon	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Detached and semidetached	23,100	27,650	30,800	36,600	43,950	49,000	51,300
Row dwellings	22,050	26,450	29,100	34,650	41,650	46,550	48,550
Walkup	17,650	21,850	25,000	29,500	34,200	37,700	39,600
Elevator-structure							

[FR Doc. 80-6620 Filed 3-3-80; 8:45 am]

BILLING CODE 4210-01-M

24 CFR Part 885

[Docket No. R-80-773]

Loans for Housing the Elderly or Handicapped; Amendment To Increase High Cost Area Adjustment Factor

AGENCY: Department of Housing and Urban Development

ACTION: Final rule.

SUMMARY: This amendment will permit HUD to make cost adjustment increases up to 75 percent in high cost areas above the dollar amount limitations provided in the regulation thereby making additional loan amounts available to finance projects for the elderly and handicapped under Section 202 of the Housing Act of 1959 in such high cost areas.

EFFECTIVE DATE: April 3, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. George O. Hipps, Jr., Director, Office of Multifamily Housing Development, Department of Housing and Urban Development, Washington, D.C. 20410; (202) 755–5720.

SUPPLEMENTARY INFORMATION: Under current regulations, the maximum allowable cost adjustment of 50 percent above specified dollar limitations is serving to eliminate a large number of proposals to house the elderly or handicapped in our high cost metropolitan areas. This amendment will enable HUD to fund many of these worthy projects thereby resulting in a greater availability of funding for projects in high cost areas.

The Department has determined that in light of the current economic situation where numerous projects are experiencing cost problems in high cost areas, it is urgent that the benefits afforded by this amendment be made available as soon as possible. Publishing a notice of proposed rulemaking and giving the public an opportunity to comment on this amendment would cause a substantial delay in making the benefits available. Therefore, the Department finds that the normal rulemaking procedure would be contrary to the public interest. Accordingly, this amendment is being published as a final rule. In order to provide for orderly processing of proposals in the pipeline, HUD field offices shall apply this change to Section 202/8 applications which have not reached initial closing as of the effective date.

The Department has further determined that this final rule will not have a significant impact upon the quality of the environment. A Finding of Inapplicability with respect to the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, Washington, D.C. 20410.

In consideration of the foregoing, 24 CFR Part 885, is amended by revising § 885.410(f)(1) to read as follows:

(Note.—Section 885.410 has been erroneously reproduced in 24 Code of Federal Regulations, Revised as of April 1, 1979. A correct version is found in the **Federal Register** at 43 FR 8497 dated March 1, 1978.)

§ 885.410 Amount and term of financing.

* * * * *

(f) * * *

(1) In any geographical area where the Assistant Secretary finds cost levels so require, the Assistant Secretary may increase, by not to exceed 75 percent, the dollar amount limitations set forth in § 885.410(b) and (c).

* * * * *

(Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C., February 25, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 80-6621 Filed 3-3-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

29 CFR Part 2520

Rules and Regulations for Reporting and Disclosure; Summary Plan Description Requirements; Final Regulations

AGENCY: Department of Labor.

ACTION: Adoption of final regulations.

SUMMARY: These regulations, which were effective on an interim basis, relate to the summary plan description, which is filed with the Department of Labor (Department) and is furnished to, and describes the rights and benefits of, participants and beneficiaries under an employee benefit plan. The regulations affect all plans required to file and furnish a summary plan description under the Employee Retirement Income Security Act of 1974.

EFFECTIVE DATE: April 3, 1980.

FOR FURTHER INFORMATION CONTACT: Robert Doyle, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C. 20216, (202) 523–7901 (not a toll-free number).

SUPPLEMENTARY INFORMATION: On July 19, 1977, the Department published final and interim regulations relating to the form, content and distribution of the summary plan description (42 FR 37178). The Department solicited comments on the interim regulations (29 CFR § 2520.104–5, § 2520.104–6, § 2520.104–28, § 2520.104a–7, § 2520.104b–2(a)(3), § 2520.104b–4) and, based on the comments received, is adopting the interim regulations, as modified and discussed below. These final regulations have been deemed to be "significant" within the meaning of Department of Labor guidelines implementing Executive Order 12044.

Sections 2520.104–5 and 2520.104–6

These sections were revised in the July 19, 1977 interim regulations (a) to provide a short additional period of deferral of certain reporting and disclosure requirements relating to the summary plan description, and (b) to permit pension plans adopting master, prototype, or pattern plans on or after March 17, 1977, to defer compliance with these reporting and disclosure requirements until the expiration of the remedial amendment period provided by Internal Revenue Service regulations.

Some commentators requested that provisions of the regulation which allow certain plans that became subject to Part 1 of Title I of ERISA before March 17, 1977 to delay furnishing an SPD until 90 days following the receipt of a final determination letter from the Internal Revenue Service, be extended to plans which are established after March 17, 1977. The Department has not accepted these comments because this provision was intended to deal with problems plans were encountering in initially complying with the requirements of ERISA. However, in light of these comments, and other comments which requested clarification as to the obligation by a plan administrator to comply with the requirements to file and furnish an SPD when a determination letter has not been received from the Internal Revenue Service, § 2520.104b–2(a)(3) has been restructured to clarify when a plan becomes subject to Part 1 for purposes of that section. In addition, the preamble to that section sets forth the circumstances under which a plan which has a request for a determination letter pending with the Internal Revenue Service would not be subject to the requirements to file and furnish an SPD.

Section 2520.104–28

This section allows certain plans a 60 day extension of time, for good cause as determined by the plan administrator, to file the initial summary plan description and to furnish it to plan participants and beneficiaries. This extension was proposed to be available only to an employee benefit plan subject to Part 1 of Title I of ERISA on or before July 19, 1977.

Some commentators requested that the extension provided be available to plans which become subject to Part 1 of Title I after July 19, 1977. The extension procedure was intended to deal with the difficulties plan administrators responsible for the preparation of summary plan descriptions might encounter in attempting to comply, for the first time, with new summary plan description requirements. The

Department does not believe similar problems will be encountered with respect to plans established after the adoption of the summary plan description regulations, and therefore, this section is adopted unchanged from the interim version.

Section 2520.104a–7

This section was originally proposed as § 2520.104a–5, but was subsequently redesignated as § 2520.104a–7 (42 FR 60898, November 29, 1977). The section requires a plan administrator to file a summary of material modifications with the Department no later than the date he is required to distribute that document to plan participants and beneficiaries.

One commentator questioned whether, because of the broad language in § 2520.104a–7, certain small welfare plans, which were exempted from the requirement to file a summary plan description under §§ 2520.104–20 and 2520.104–21, would nevertheless be required to file a summary of material modifications. Section 2520.104a–7 has been modified to make clear that plans which are otherwise exempt from the requirement to file a summary plan description are not required to file a summary of material modifications, since the latter document is merely a summary of changes in information previously described in the summary plan description.

Section 2520.104b–2(a)(3)

The summary plan description must be filed with the Department and furnished to plan participants within 120 days of such time as a plan becomes subject to Part 1 of Title I of ERISA. Interim § 2520.104b–2(a)(3) provides a rule for determining when a plan becomes subject to Part 1 of Title I of ERISA. The final section, which is unchanged in substance from the interim and proposed version, has been restructured to clarify when a plan becomes subject to Part 1 for purposes of this section. Under the interim and final version, if a plan is adopted with a prospective effective date, including those instances where the prospective date is dependent upon the satisfaction of a condition or the occurrence of a contingency, the 120 day period begins the day after the effective date (i.e., the day after the satisfaction of the condition or occurrence of the contingency).[1] Similarly, in the case of a plan which is made retroactively effective, but dependent upon the satisfaction of a future condition, the 120 day period begins the day after the condition is satisfied. In order to remove any ambiguity with respect to the application of this section to a situation where a plan is adopted with a retroactive effective date (but without a condition precedent), a sentence has been added which states that in such a case, the 120 day period begins on the day after the plan is adopted.

Section 2520.104b–4

This section was adopted as a final regulation on March 15, 1977. Subsequently, on July 19, 1977, in light of public comments it was revised on an interim basis and proposed for final adoption to provide several methods for tailoring disclosure so that a plan may furnish to retired participants, beneficiaries receiving benefits and separated participants with vested benefits only information which is pertinent to such persons. These changes are adopted here, the Secretary of Labor having made the determinations required by section 110 of ERISA.[2]

Some commentators requested that the proposed alternative method of compliance be amended to permit any previously used booklet or pamphlet, supplemented with certain information, to satisfy the requirement to file and distribute a summary plan description on the date due—November 16, 1977. The Department has not adopted these comments because it appears, on the basis of the comments, that such pre-ERISA documents generally did not meet the content and format requirements of the SPD regulations. The Department believes that retired participants, vested separated participants and beneficiaries receiving benefits are entitled to information contemplated by and in a format consistent with the requirements of these regulations.

Accordingly, under the authority of sections 101, 102, 104, 109, 110, and 505; Pub. L. 93–406, 88 Stat. 840–841, 847–852, 894 (29 U.S.C. 1021, 1022, 1024, 1029–1031, 11345) the following regulations are hereby adopted.

§ 2520.104–5 Deferral of certain reporting and disclosure requirements relating to the summary plan description for welfare plans.

(a) *General Rule.* Under the authority of section 104(a)(3) of the Act, employee welfare benefit plans described in and meeting the conditions of paragraph (b) may defer certain reporting and disclosure requirements that apply on and after July 15, 1977. These requirements may be deferred until dates that are no earlier than November 16, 1977, as provided in paragraph (c). The requirements that may be deferred include filing a copy of a summary plan description with the Secretary, furnishing a copy of a summary plan description to participants of a plan, filing material modifications to the plan and changes in the information required to be included in the summary plan description with the Secretary, furnishing a summary description of such modification or changes to participants of a plan, and furnishing a copy of the latest summary plan description to participants and beneficiaries upon written request.

(b) *Application.* (1) In the case of a welfare plan which became subject to the provisions of Part 1, Title I of the Act on or before March 2, 1976, the plan administrator may defer until the time specified in paragraph (c) compliance with the requirements set forth in paragraph (a), if the administrator:

(i) Furnished an ERISA Notice which met the requirements of § 2520.104b–5 on or before May 30, 1976 to each participant covered under the plan as of March 2, 1976,

(ii) Furnished an ERISA Notice which met the requirements of § 2520.104b–5 to each person who became a participant covered under the plan after March 2, 1976 and before December 2, 1976, within 90 days after that person became a participant covered under the plan and

(iii) Furnished a copy of the ERISA Notice, without charge, upon request to any participant covered under the plan or beneficiary to whom no copy of the Notice had been previously furnished.

(2) In the case of a welfare plan which became subject to the provisions of Part 1, Title I of the Act after March 2, 1976 but before December 2, 1976, the plan administrator may defer until the time specified in paragraph (c) compliance with the requirements set forth in paragraph (a) if the administrator:

[1] For example, if a plan is adopted with a condition that the plan will not be effective until issuance of a favorable determination letter by the Internal Revenue Service, the 120 day period will begin the day after issuance of such a letter.

[2] Under section 110, the Secretary on his own motion or after having received the petition of an administrator may prescribe an alternative method for satisfying any requirement of part 1 of Title I of ERISA with respect to any pension plan, or class of pension plans, subject to such requirement if he determines—

(1) that the use of such alternative method is consistent with the purposes of this title and that it provides adequate disclosure to the participants and beneficiaries in the plan, and adequate reporting to the Secretary,

(2) that the application of such requirement of this part would—

(A) increase the costs to the plan, or

(B) impose unreasonable administrative burdens with respect to the operation of the plan, having regard to the particular characteristics of the plan or the type of plan involved; and

(3) that the application of this part would be adverse to the interests of plan participants in aggregate.

(i) Furnished an ERISA Notice which met the requirements of § 2520.104b–5 within 90 days after the date the plan became subject to the provisions of Part 1, Title I, to each person who was a participant covered under the plan on the date the plan became subject to the provisions of Part 1, Title I;

(ii) Furnished an ERISA Notice which met the requirements of § 2520.104b–5 to each person who became a participant covered under the plan after the date on which the plan became subject to the provisions of Part 1, Title I and before December 2, 1976, within 90 days after that person became a participant covered under the plan; and

(iii) Furnished a copy of the ERISA Notice, without charge, upon request to any participant covered under the plan or beneficiary to whom no copy of the Notice had been previously furnished.

(3) In the case of a welfare plan which became subject to the provisions of Part 1, Title I of the Act on or after December 2, 1976, but before the date of publication of these regulations, the administrator may defer compliance with the requirements set forth in paragraph (a) until the time set in paragraph (c).

(c) The administrator of a welfare plan described in paragraph (b) who elected to defer compliance with the requirements described in paragraph (a) shall have complied with such requirements by November 16, 1977.

§ 2520.104–6 Deferral of certain reporting and disclosure requirements relating to the summary plan description for pension plans.

(a) *General rule.* Under the authority of section 110 of the Act, an alternative method of compliance which defers certain reporting and disclosure requirements that apply on and after May 30, 1976 is provided for employee pension benefit plans described in and meeting the conditions of paragraph (b). The alternative method of compliance permits pension plans to defer these requirements until the times set forth in paragraph (c) or (d). The requirements which may be deferred include filing a copy of the summary plan description with the Secretary, furnishing a copy of the summary plan description to participants and beneficiaries of a plan, filing material modifications and changes in the information required to be included in the summary plan description, with the Secretary, furnishing a summary description of such modifications or changes to participants and beneficiaries of a plan, and furnishing a copy of the latest summary plan description upon written request.

(b) *Application.* (1) In the case of a pension plan which became subject to the provisions of Part 1, Title I of the Act on or before March 2, 1976, the plan administrator may defer until the times specified in paragraph (c)(1) compliance with the requirements set forth in paragraph (a), if the administrator:

(i) Furnished an ERISA Notice which met the requirements of § 2520.104b–5 on or before May 30, 1976 to each participant covered under the plan and beneficiary receiving benefits as of March 2, 1976;

(ii) Furnished an ERISA Notice to each person who became a participant covered under the plan or a beneficiary receiving benefits after March 2, 1976 but more than 120 days before the date prescribed in paragraph (c)(1), within 90 days after that person became a participant covered under the plan or beneficiary receiving benefits; and

(iii) Furnished a copy of the ERISA Notice, without charge, upon request to any participant covered under the plan or beneficiary receiving benefits to whom no copy of the Notice had been previously furnished.

(2) In the case of a pension plan which became subject to the provisions of Part 1, Title I of the Act after March 2, 1976 but before December 2, 1976, the plan administrator may defer until the times specified by paragraph (c)(1) compliance with the requirements set forth in paragraph (a) if the administrator:

(i) Furnished an ERISA Notice which met the requirements of § 2520.104b–5 within 90 days after the date the plan became subject to the provisions of Part 1, Title I to each person who was a participant covered under the plan or beneficiary receiving benefits on the date the plan became subject to the provisions of Part 1, Title I;

(ii) Furnished an ERISA Notice which met the requirements of § 2520.104b–5 to each person who became a participant covered under the plan or a beneficiary receiving benefits after the date on which the plan became subject to the provisions of Part 1, Title I but more than 120 days before the date prescribed in paragraph (c)(1), within 90 days after that person became a participant covered under the plan or a beneficiary receiving benefits; and

(iii) Furnished a copy of the ERISA Notice, without charge, upon request to any participant covered under the plan or beneficiary receiving benefits to whom no copy of the Notice had been previously furnished.

(3) In the case of a pension plan which became subject to the provisions of Part 1, Title I of the Act on or after December 2, 1976 but before March 17, 1977, the administrator may defer compliance with the requirements set forth in paragraph (a) until the times specified in paragraph (c)(1).

(4) In the case of a pension plan, other than a pension plan described in subparagraph (5), which became subject to the provisions of Part 1, Title I of the Act on or after March 17, 1977 and before July 19, 1977, the administrator may defer compliance with the requirements set forth in paragraph (a) until the time specified in paragraph (c)(2).

(5) In the case of a master, prototype or practitioner pattern plan which became subject to the provisions of Part 1, Title I of the Act on or after March 17, 1977, the administrator may defer compliance with the requirements set forth in paragraph (a) until the times specified in paragraph (d).

(c)(1) The administrator of a pension plan described in paragraphs (b)(1), (b)(2), or (b)(3) who elected to defer compliance with the requirements described in paragraph (a)—

(i)(A) And who files a request for a determination letter within the period prescribed in section 401(b) of the Internal Revenue Code of 1954 and the regulations issued pursuant thereto, shall have complied with the requirements described in paragraph (a) by the later of November 16, 1977 or 90 days after the date on which notice of the final determination with respect to the request for a determination letter is issued by the Internal Revenue Service, the request is withdrawn or the request is otherwise finally disposed of.

(B) For the purpose of computing the periods of time described in subparagraph (A) above, a notice of determination, opinion letter or notification letter from the Internal Revenue Service will be deemed to be issued on the later of the date of such document or the date of postmark thereon. The date of withdrawal of a request for a determination letter, opinion letter or notification letter will be deemed to be the later of the date on the document withdrawing the request or the postmark thereon. The date of "other disposition" will be the later of the date on the document notifying of such other disposition or the postmark on such document.

(ii) And who does not file a request for a determination letter within the period prescribed in section 401(b) of the Internal Revenue Code and the regulations issued pursuant thereto, shall have complied with the requirements described in paragraph (a) by the later of November 16, 1977 or the close of the period prescribed in section 401(b) of the Internal Revenue Code of

1954 and the regulations issued pursuant thereto.

(2) The administrator of a pension plan described in paragraph (b)(4) who defers compliance with the requirements described in paragraph (a) shall have complied with such requirements by November 16, 1977.

(d) *Special rule for plans adopting master, prototype or practitioner pattern plans after March 17, 1977.* The administrator of a pension plan which adopts a master, prototype, or practitioner pattern plan on or after March 17, 1977 may defer compliance with the statutory requirements described in pararaph (a) until the later of—

(1) The end of the applicable remedial amendment period described in 26 CFR § 1.401b–1(d) (1) or (2) of regulations issued by the Internal Revenue Service under section 401(b) of the Internal Revenue Code of 1954, or

(2) November 16, 1977.

§ 2520.104–28 Extension of time for filing and disclosure of the initial summary plan description.

(a) *General.* An employee benefit plan may, for good cause as determined by the plan administrator, extend the date to file and disclose the initial summary plan description or supplement for a period of 60 days from the date provided in § 2520.104a–3 and § 2520.104b–2. This extension is available to all employee benefit plans, except those plans described in paragraph (c), which may use the extension procedure provided under that paragraph.

(b) *Requirements.* In order for an employee benefit plan to extend the date for filing and disclosure of the initial summary plan description or supplement, the plan administrator of a plan must—

(1) Determine that there is good cause for the extension. The following are examples of situations for which good cause could be found. This list is not exclusive and other situations may also constitute good cause for extending the date for filing and disclosure:

(i) A plan whose summary plan description or supplement is being prepared by a consulting company, insurance carrier or service, or other person that engages in the preparation of summary plan descriptions or supplements, where the volume of work of such persons exceeds the capacity to finish preparation of these documents before the time to file and disclose them under § 2520.104a–3 and § 2520.104b–2.

(ii) A plan of a plan sponsor which has 20 or more classes of participants for which separate summary plan descriptions or supplements will be filed and disclosed.

(2) Furnish with the initial summary plan description or supplement a statement describing the good cause for which the date for filing and disclosure was extended.

(c) *Plans involved in collective bargaining negotiations.* The plan administrator of a plan which by the terms of a collective bargaining agreement may be the subject of collective bargaining negotiations within a period of 120 days prior to, or after, the date for filing and disclosure of the summary plan description or supplement under § 2520.104a–3 and § 2520.104b–2, may extend the requirement to file and disclose the summary plan discription or supplement for a period not to exceed 90 days from the date of conclusion of the new collective bargaining agreement. A statement explaining the basis upon which the date was extended must be furnished with the summary plan description or supplement.

(d) *Limitation.* This extension procedure is available only for an employee benefit plan which is subject to Part 1 of Title I on or before July 19, 1977.

§ 2520.104a–7 Summary of material modification.

The administrator of an employee benefit plan subject to the provisions of Part 1 of Title I of the Act, and not otherwise exempt from the requirement to file and distribute a summary plan description, shall file a summary description of modifications or changes described in section 102(a)(1) of the Act with the Secretary no later than the date on which the summary description is required to be disclosed to participants and beneficiaries by § 2520.104b–3.

§ 2520.104b–2 Summary plan description.

(a) *Obligation to furnish.*

* * * * *

(3)(i) A plan becomes subject to Part 1 of Title I on the first day on which an employee is credited with an hour of service under § 2530.200b–2 or § 2530.200b–3. Where a plan is made prospectively effective to take effect after a certain date or after a condition is satisfied, the day upon which the plan becomes subject to Part 1 of Title I is the day after such date or condition is satisfied. Where a plan is adopted with a retroactive effective date, the 120 day period begins on the day after the plan is adopted. Where a plan is made retroactively effective dependent on a condition, the day on which the plan becomes subject to Part 1 of Title I is the day after the day on which the condition is satisfied. Where a plan is made retroactively effective subject to a contingency which may or may not occur in the future, the day on which the plan becomes subject to Part 1, Title I is the day after the day on which the contingency occurs.

(ii) Examples: Company A is negotiating the purchase of Company B. On September 1, 1978, as part of the negotiations, Company A adopts a pension plan covering the employees of Company B, contingent on the successful conclusion of its negotiations to purchase Company B. The plan provides that it shall take effect on the first day of the calendar year in which the purchase is concluded. On February 1, 1979, the negotiations conclude with Company A's purchase of Company B. The plan therefore becomes effective on February 1, 1979, retroactive to January 1, 1979. The summary plan description must be filed and disclosed no later than 120 days after February 1, 1979.

* * * * *

§ 2520.104b–4 Alternative methods of compliance for furnishing the summary plan description and summaries of material modifications of a pension plan to a retired participant, a separated participant with vested benefits, and a beneficiary receiving benefits.

Under the authority of section 110 of the Act, in the case of an employee pension benefit plan—

(a) *Summary plan descriptions.* A plan administrator will be deemed to satisfy the requirements of section 104(b)(1) of the Act and § 2520.104b–2(a) to furnish a copy of the initial summary plan description to a retired participant, a beneficiary receiving benefits, or a separated participant with vested benefits ("vested separated participant") if, no earlier than the date stated in subparagraph (4) of this paragraph,

(1) In the case of a retired participant or a beneficiary receiving benefits, a document is furnished which—

(i) Meets the requirements of §§ 2520.102–2 and 2520.102–3 except paragraphs (b)(3), (b)(4), (j), (k), (l), (n), (o) and (p);

(ii) Contains a statement that the benefit payment presently being received by the retired participant or beneficiary receiving benefits will continue in the same amount and for the period provided in the mode of settlement selected at retirement, and will not be changed except as described in subparagraph (iii); and

(iii) Contains a statement describing any plan provision under which the present benefit payment may be reduced, changed, terminated, forfeited or suspended;

(2) In the case of a vested separated participant, a document is furnished which—

(i) Meets the requirements of §§ 2520.102–2 and 2520.102–3 except paragraphs (b)(3), (b)(4), (j), (l), (n), (o), (p) and (r);

(ii)(A) If at or after separation, a separated vested participant was furnished a statement of the dollar amount of the vested benefit or the method of computation of the benefit, includes a statement that the dollar amount of the vested benefit was previously furnished and that a copy of the previously furnished statement of the dollar amount of such vested benefit or method of computation of the benefit may be obtained from the plan upon request;

(B) If the vested separated participant was not furnished a statement of the dollar amount of the vested benefit or the method of computation of the benefit, the plan furnishes either a statement of the dollar amount of the vested benefit, or a statement of the formula used to determine the dollar amount of the vested benefit;

(iii) Includes a statement of the form in which the benefits will be paid and duration of the payment period or a description of the optional modes of payment available under the plan; and

(iv) Includes a statement describing any plan provision under which a benefit may be reduced, changed, terminated, forfeited or suspended; or

(3)(i) Such retired participant, vested separated participant, or beneficiary receiving benefits was furnished with a copy of a document which—

(A) Satisfies the requirements of section 102(a)(1) of the Act and § 2520.102–2 (relating to the style and format of the summary plan description) and § 2520.102–3 (relating to the content of the summary plan description);

(B) Describes the rights and obligations under the plan of such retired participant, vested separated participant, or beneficiary receiving benefits as of the date stated in subparagraph (4);

(ii) In the case of a person who retired, became a beneficiary, or separated with vested benefits before November 16, 1977, a document will be deemed to comply with the requirements of subparagraph (i) if the document omitted only information described in one or more of the provisions of § 2520.102–3 listed below, provided that a supplement containing such information, which meets the requirements of § 2520.102–2, is furnished to the retired participant, vested separated participant, or beneficiary receiving benefits by November 16, 1977.

(A) Employer identification number (EIN), as required by § 2520.102–3(c);

(B) Type of administration, as required by § 2520.102–3(e);

(C) Name of agent for service of legal process, as required by § 2520.102–3(g);

(D) Names and addresses of trustees, as required by § 2520.102–3(h);

(E) Statement regarding plan termination insurance as required by § 2520.102–3(m);

(F) Date of the end of the fiscal year, as required by § 2520.102–3(r); or

(G) Statement of ERISA rights, as required by § 2520.102–3(t).

(4) For purposes of this paragraph the dates are: For a vested separated participant, the date of separation; for a beneficiary, the date on which payment of benefits commences; and for a retired participant, the date of retirement.

(b) *Updated summary plan descriptions.* A copy of an updated summary plan description need not be furnished as prescribed in section 104(b)(1) of the Act and § 2520.104b–2(b) to a retired participant, vested separated participant, or a beneficiary receiving benefits if—

(1)(i) On or after the date stated in subparagraph (ii), the retired participant, vested separated participant, or beneficiary is furnished with a copy of the most recent summary plan description and a copy of any summaries of material modifications not incorporated in such summary plan description;

(ii) For purposes of subparagraph (i) the dates are: for a retired participant, the date of retirement; for a vested separated participant, the date of separation; and for a beneficiary, the date on which payment of benefits commences;

(2) No latter than the date on which an updated summary plan description is furnished to participants and beneficiaries as prescribed by section 104(b)(1) of the Act and § 2520.104b–2(b), a retired participant, vested separated participant, or beneficiary receiving benefits is furnished a notice containing the following:

(i) A statement that the benefit rights of such retired participant, vested separated participant, or beneficiary receiving benefits are set forth in the earlier summary plan description and any subsequently furnished summaries of material modifications (*see* paragraph (c)), and

(ii) A statement that such retired participant, vested separated participant, or beneficiary receiving benefits may obtain a copy of the earlier summary plan description and summaries of material modifications described in subparagraph (i), and the updated summary plan description, without charge, upon request, from the plan administrator; and

(3) The plan administrator furnishes a copy of the documents described in subparagraph (2)(ii) to such retired participant, vested separated participant or beneficiary, without charge, upon request.

(c) *Summary of material modifications or changes.* A summary description of a material modification to the plan or a change in the information required to be included in the summary plan description need not be furnished to a retired participant, a vested separated participant or a beneficiary receiving benefits under the plan, within the time prescribed in section 104(b)(1) of the Act and § 2520.104b–3 for furnishing summary descriptions of such modifications and changes, if the material modification or change in no way affects such retired participant's, vested separated participant's, or beneficiary's rights under the plan. For example, a change in trustees is information which such a person may need to know in order to make inquiries about his or her rights expeditiously, and hence must be furnished. On the other hand, a modification in benefits under the plan to which such retired participant, vested separated participant, or beneficiary had not at any time been entitled (and would not in the future be entitled) would not affect his or her rights and hence need not be furnished. If such retired participant, vested separated participant, or beneficiary requests a copy of a summary description of a material modification or a change which was not furnished, the plan administrator shall furnish the copy, without charge.

(d) *Special rule for a plan which has previously furnished a summary plan description.* A plan described in § 2520.104b–2 (e) or (f) which did not specify and identify those items of information in the summary plan description pertinent to a class of participants or beneficiaries as required by § 2520.102–2 must furnish, by November 16, 1977 a supplement to the class which—

(1) Identifies the information not relevant to the class, and

(2) Provides the information required to be furnished to the class under § 2520.102–3, or under an alternative provided by this section.

Signed at Washington, D.C., this 27th day of February 1980.

Ian D. Lanoff,

Administrator, of Pension and Welfare Benefit Programs, Labor-Management Service Administration.

[FR Doc. 80–6528 Filed 3–3–80; 8:45 am]

BILLING CODE 4510–29–M

29 CFR Part 2520

Rules and Regulations for Reporting and Disclosure

AGENCY: Department of Labor.

ACTION: Final regulation.

SUMMARY: This document sets forth a regulation which requires that insurance company financial reports be filed with the Department of Labor (the Department) only upon request. This regulation will affect all plans subject to the requirement under section 103(e) of the Employee Retirement Income Security Act of 1974 (the Act) to file an insurance company financial report with the annual report of the plan.

EFFECTIVE DATE: These regulations are effective March 4, 1980.

FOR FURTHER INFORMATION CONTACT: Wayland Coe, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C. 20216, 202/523–8474. This is not a toll free number.

SUPPLEMENTARY INFORMATION: On June 22, 1979, the Department of Labor (the Department) published in the **Federal Register** (44 FR 36432) a proposed regulation pertaining to reporting and disclosure under section 103(e) of the Act. The proposed regulation was designed to reduce the paperwork burden imposed by the Act by eliminating the requirement that certain employee benefit plans file insurance company financial reports with the Department on an annual basis.[1]

Section 103(e) of the Act provides, in part, that administrators of employee benefit plans affording benefits which are insured in whole or in part, and for which the insurance company, insurance service or similar organization does not maintain separate experience records, shall include a copy of the financial report of the insurance company, insurance service or similar organization with the annual report of the plan filed with the Secretary of Labor (the Secretary).

Section 104(a)(3) of the Act authorizes the Secretary by regulation to exempt any welfare benefit plan from all or part of the reporting and disclosure requirements of Title I of the Act if he finds that such requirements are inappropriate as applied to welfare benefit plans. Section 110 of the Act authorizes the Secretary to prescribe an alternative method for satisfying any requirement of Part 1, Title I of the Act with respect to a pension benefit plan if he determines that the use of the alternative method meets certain statutory criteria.[2]

All interested persons were invited to submit comments concerning the proposal. Two comments were received. One commentator supported the proposed regulation because it would help to reduce the administrative burden and expense of complying with the Act without adversely affecting the interests of plan participants. The other commentator misread the regulation as exempting a plan from the requirement to file a Schedule A (Insurance Information) with the plan's annual report.

The Secretary has made the findings required by section 104(a)(3) and the determinations required by section 110(a), and has decided to adopt the regulation as proposed.

Because this regulation provides relief from a reporting obligation, it is effective immediately upon publication in the **Federal Register**, under the authority of the Administrative Procedure Act (5 U.S.C. 553(d)).

Therefore, in accordance with the authority in sections 104(a)(3), 110, and 505 of the Act, Pub. L. 93–406, 88 Stat. 848, 851, 894 (29 U.S.C. 1024, 1030, 1135), Chapter XXV of Title 29 of the Code of Federal Regulations is amended to add new § 2520.204–47 to Subpart D of Part 2520 as follows:

[1] This regulation has been deemed a significant regulation within the meaning of Department of Labor guidelines (44 FR 5570, January 26, 1979) issued to implement Executive Order 12044 (43 FR 12661, March 23, 1978).

[2] The Secretary may prescribe an alternative method under section 110(a) of the Act if he determines: (1) that the use of such alternative method is consistent with the purposes of Title I of the Act and provides adequate disclosure to plan participants and beneficiaries and adequate reporting to the Department; (2) that the application of the reporting and disclosure requirements of the Act would increase the costs to plans or impose unreasonable administrative burdens with respect to the operation of plans having regard to the particular characteristics of the plans or type of plans involved; and (3) that the application of the reporting and disclosure requirements of the Act would be adverse to the interests of plan participants in the aggregate.

PART 2520—RULES AND REGULATIONS FOR REPORTING AND DISCLOSURE

Subpart D—Provisions Applicable to Both Reporting and Disclosure Requirements

§ 2520.104–47 Limited exemption and alternative method of compliance for filing of insurance company financial reports.

An administrator of an employee benefit plan to which section 103(e)(2) of the Act applies shall be deemed in compliance with the requirement to include with its annual report a copy of the financial report of the insurance company, insurance service or similar organization, provided that the administrator files a copy of such report within 45 days of receipt of a written request for such report by the Secretary of Labor.

Signed at Washington, D.C., this 26th day of February, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80–6483 Filed 3–3–80; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DOD Regulation 6010.8–R]

Implementation of the Civilian Health and Medical Program of the Uniformed Service; Amendment No. 3

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This amendment expands benefits under the Civilian Health and Medical Program of the Uniformed Services regarding the provisions of computer tomography (CT) scanning in that it adds coverage for CT scans of other anatomical regions of the body in addition to head scans; and revises the criteria for coverage of CT scans, removing requirements for hospital-based equipment. These actions will remove restrictions of beneficiary access to necessary health services.

EFFECTIVE DATES: Retroactively for covered CT scans provided on or after October 1, 1978.

FOR FURTHER INFORMATION CONTACT: LTC L. Rowlette, Special Assistant for CHAMPUS, Office of the Deputy Assistant Secretary of Defense (Health Resources and Programs) OASD(HA),