

0012

From: Frank Maguire [fmaguire@rpost.com]
Sent: Monday, July 28, 2003 12:10 PM
To: e-ORI@dol.gov
Subject: (R)egistered: FW: (R+) Attn: COBRA notice regulations - commnets on proposed rulemaking
Importance: High



This is a Registered e-Mail from **Frank Maguire**. Your reply to this message will be registered.

To whom it may concern,

This e-mail transmitting comments on proposed rulemaking, due July 28th, originally was sent on Thursday, July 24th, but there was a delivery failure as the printed e-mail address was incorrect. I learned of the delivery failure today when I returned to my office, since I had sent the original message "registered." When I called to learn of the correct e-mail address, there was no apology offered and had I not used registered e-mail, I don't know how I would have argued successfully that I had filed my comments in a timely manner, if at all.

Frank Maguire
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RECEIVED
OFFICE OF REGULATIONS
AND INTERPRETATIONS
2003 JUL 28 PM 4:42

(R)egistered e-Mail, provided by RPost, reduces business risk by increasing accountability for important electronic communications. Unlike traditional Internet e-mail, (R)egistered e-Mail allows the e-mail sender to prove what was sent, when it was sent, whether it was delivered, and when it was delivered and accepted. This proof is in the form of an electronic receipt, which is returned to the sender in a counterfeit-proof form and can be authenticated at any time.

-----Original Message-----

From: Frank Maguire [mailto:fmaguire@rpost.com]
Sent: Thursday, July 24, 2003 12:33 PM
To: e-ORI
Subject: (R+) Attn: COBRA notice regulations - commnets on proposed rulemaking

To whom it may concern,

Attached is a word document that contains RPost comments on proposed rulemaking relating to COBRA notice regulation.

7/28/2003

0012

Thank you.

Frank Maguire
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Business Planning & Strategy
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For more information about Registered e-Mail visit <http://www.rpost.com>.

MEMORANDUM

To: Office of Regulations and Interpretations, Employee Benefits
Security Administration, U.S. Department of Labor

Attn: COBRA Notice Regulations

From: Mr. Frank Maguire
Vice President – Business Planning & Strategy
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RECEIVED
OFFICE OF REGULATIONS
AND INTERPRETATIONS
2003 JUL 28 PM 4:43

Re: U.S. Department of Labor Proposed Regulations on COBRA Notices
(29 CFR Part 2590 – Continuation of Healthcare Coverage)

General Comments:

Given that, (1) the universe of affected parties is very large, should the referenced proposed regulations become final [Affected parties include administrators of group health plans, participants and beneficiaries (including qualified beneficiaries) of group health plans, and the sponsors and fiduciaries of such plans]; and (2) considering the attempt to reduce program compliance costs and paperwork reduction efforts, we suggest that nothing be included in the final rulemaking that would directly or indirectly discourage delivery of written notices electronically.

Of particular concern is the statement: "...the Department believes that due to the nature of the rights and obligations involved in COBRA notice requirements, most plan administrators tend not to choose electronic distribution methods for COBRA notices." The nature of this statement appears to support a bias against the use of e-mail.

In addition, since "...the Department requests comments on the use of electronic technology in COBRA notice administration," we would like to explain the efficiency, accountability, legal protections and cost savings available to those who choose Registered e-Mail delivery over Fax, certified mail or courier. In addition to these benefits, Registered e-Mail is starting to be used by Federal Agencies to enhance E-government programs and to help reduce paper transactions.

(R)egistered e-Mail by RPost:

Government agencies are using (R)egistered e-Mail by RPost in the applications that are described below and likewise similar applications would apply for COBRA notices that are required by law. The unique attributes of Registered e-Mail should be given a fair review in considering the nature of the rights and obligations involved in COBRA notice requirements and accordingly, we recommend that nothing in the final rulemaking should be construed to discourage the use of electronic delivery of notice requirements.

Description of (R)egistered e-Mail: For each registered e-mail sent, the sender gets a Registered Receipt via e-mail that allows the sender to legally prove delivery under standards of the Electronic Signatures in Global and National Commerce Act ("E-SIGN") and the Uniform Electronic Transaction Act ("UETA"). The Registered Receipt proves:

- That the message was sent.
- That the message was delivered.
- The exact time the message was sent and delivered.
- Precise content of the message and attachments.

An RPost receipt is itself an e-mail message so that in the event of a dispute, it can be distributed to any interested party who can, in turn, independently and easily validate its contents. Any party can validate a Registered Receipt by forwarding it to verify@rpost.net. If the receipt is valid, the questioning party will receive a validating e-mail with the original transmission information, original body text, and original attachments. This occurs WITHOUT requiring any party to store a copy of the Registered Receipt other than the sender. With the RPost technology, the Registration Networks do NOT store any e-mails.

Key attributes within the suite of Registered e-Mail services follow:

Registered e-Mail provides assurance for Internet e-mail. It protects sender in a dispute involving e-mail; works for ANY Internet address and is simple to use and verify. What makes this service particularly unique is that it (1) provides proof of delivery yet does NOT require any additional effort by receiver; (2) proves content and attachments delivered; (3) proves legal delivery with government time; (4) provides sender counterfeit-proof electronic record as e-mail. **Confidential e-Mail** provides the same service, yet is sent to the receiver unmarked.

Reply Registered establishes a digital handshake by recording an authentic record of transaction / negotiation. It records agreement between two parties by e-mail, fully electronic. Further, the sender can enable receiver to reply via (R)egistered e-Mail without any extra software, procedures, or effort... while generating a Registered Receipt for receiver. What makes it particularly unique is that this service (1) does NOT require any additional effort by receiver; (2) provides both parties with final counterfeit-proof

electronic record of entire negotiation, agreement, dialog; and (3) the sender can enable ANY recipient to reply "Registered".

Sealed and Registered protects against an e-mail hoax. It provides receiver, or any future recipient, ability to ensure integrity and verify e-mail origin. It protects the sender against misrepresentation or hoaxes. Further, this feature provides third-party certification of authorship and origin of the e-mail. What makes this service particularly unique, versus PKI digitally signed e-mail, is that the digital seal is durable, works on all e-mail systems, and can be signed by author. Specifically, (1) any future recipient (second, third+) can verify origin, integrity. (2) Any recipient can regenerate original e-mail. (3) Any recipient can verify author's signature and original content. (4) It works for all e-mail systems (web mail, PINE, Terminal, etc.).

Official Registered helps to protect the Government sender against inadvertent disclosure under provisions of the Freedom of Information Act. This feature helps to protect against inadvertent disclosure and protects Government against successful FOIA request of inadvertently disclosed information by providing proper handling of sensitive information as well as verification of content, attachments, times of transmission. It directs a copy of Registered Receipt to FOIA office for protection. These Receipts can be easily sorted and archived in a verifiable form.

In-take Service eliminates disputes around e-filings. This service takes any plain e-mail submitted to a Federal Agency and converts it into an inbound Reply Registered e-Mail. The public filer and agency both retain Registered Receipts as proof of time, content, attachments submitted and accepted by agency. What makes this unique is that no web-system is needed and it proves content submitted. Further, it works for any e-filer, sender needs only plain e-mail, minimizes cost and overhead by negating need for web-services/web filing, and the sender and agency both retain the same counterfeit proof electronic record of filing.

Registered e-Mail solves the following problems associated with standard e-mail:

- No court rulings have treated standard e-mail communications as probative in any case in which time, content or delivery of the message have been disputed.
- Messages can appear in a sender's "sent" folder without having been sent and content can be easily and undetectably changed. Therefore, retaining copies of sent e-mails does not prove that they were sent or that the content is unchanged.
- The time stamps that appear on e-mails are wholly dependant on user's computer time settings and have little evidentiary value.
- While US Postal Service mail is deemed delivered if sent, this is not true of electronic mail. UETA stipulates that electronic messages can be regarded as delivered only if they can be shown to have arrived at the recipient's mail system.
- An estimated 2% of standard e-mails never reach their destinations.
- The standard "delivery receipts" sometimes received from recipients' mail systems are easily amended or forged and have little evidentiary value.

Conclusion: In the process of moving from proposed to final rulemaking, we would encourage the review of Registered e-Mail as a service that is currently available, and used by Federal Agencies, and could be employed to enhance electronic delivery of COBRA's notice requirements with an eye towards efficiency, legal protection, accountability and cost reduction.