

U.S. Healthcare Reform:

Early Retiree Reinsurance Program

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Employers providing health coverage to early retirees in the U.S. should be aware of the new retiree reinsurance program under healthcare reform that goes into effect June 1, 2010. Recent guidance issued by the Department of Health and Human Services specifies the qualifications for eligibility, the steps plan sponsors must take in the application process, and the requirements for reimbursement.

The Patient Protection and Affordable Care Act (PPACA) includes a new reinsurance program that is available to group health plan sponsors who provide medical coverage to early retirees and their spouses, surviving spouses, and dependents (the program). The program is intended to encourage employers to provide health coverage to early retirees until state health exchanges and federal subsidies for health coverage are implemented.

The secretary of health and human services (HHS) has issued an interim final rule implementing the program which was published in the Federal Register on May 5, 2010.

To whom does the program apply?

The program applies to an 'early retiree,' which is a plan participant (and his or her enrolled spouse, surviving spouse, or dependent(s)) who is age 55-64, enrolled in health benefits under the employer sponsored plan, not eligible for coverage under Medicare, and not an active employee of the plan sponsor.

How long will the program last?

The program is scheduled to begin on June 1, 2010, and will end on January 1, 2014, or until the \$5 billion in funding allocated to the program is exhausted.

What is the process necessary to participate?

Eligibility to participate in the program is not automatic. A plan sponsor is eligible to participate in the program if the plan sponsor submits a timely application for certification to the secretary, or the secretary's designee, containing the necessary information. The application process is anticipated to be similar to the reimbursement process under the Medicare Part D subsidy program.

Once received, the secretary must approve the application and certify the plan and plan sponsor as eligible before the plan sponsor can request a reimbursement under the program. Applications will be processed in the order received. Incomplete applications will be returned and any revised applications will be processed based on the date the revised submission is received, not based on the date of the original, returned submission. Due to the limited duration and budget for this program, it is important for plan sponsors interested in the program to become certified as quickly as possible. A separate application is not required for each plan year, but the application must identify the plan year start and end date cycle (starting month and day, and ending month and day), for which the plan sponsor is applying.

A plan sponsor's application for certification must be signed by an authorized representative, and the application must include the plan sponsor's tax identification number; the plan sponsor's name and address; contact name, telephone number, and e-mail address; and an agreement between the plan sponsor and HHS that is signed by authorized representatives, and includes:

- An assurance that the plan sponsor has a written agreement with a health insurance issuer or group health plan regarding information disclosure as required for participation in the program

- An acknowledgement that the information in the application is being provided to obtain federal funds, and all subcontractors acknowledge that information provided in connection with any subcontract is used for purposes of obtaining federal funds
 - An attestation that policies and procedures are in place to protect against fraud, waste, and abuse under the program, and to timely comply with requests from the secretary to produce information about such policies and procedures and their effectiveness
 - Any other terms as required by the secretary
- A summary describing how the plan sponsor will use reimbursements received under the program in accordance with the program's requirements is also required, including:
- How the reimbursement will be used to reduce premium contributions, co-payments, deductibles, co-insurance, or other out-of-pocket costs for plan participants (including those participants who are not early retirees), to reduce health benefit premium costs for the sponsor, or to reduce any combination of such costs
 - Procedures or programs that the plan sponsor has in place that have generated or have the potential to generate cost savings with respect to plan participants (including those participants who are not early retirees) with chronic and high cost conditions (generally those conditions for which \$15,000 or more in health benefit claims are likely to be incurred in a plan year by a participant)
 - How the reimbursement will be used to maintain the plan sponsor's level of contribution to the plan
 - The projected amount of reimbursement to be received from the program for the first two plan year cycles, with specific amounts for each of the two cycles
 - A list of all benefit options under the plan that early retirees for whom the plan sponsor receives program reimbursements may be claimed
 - Any other information required by the secretary

What is the reimbursement and how is it obtained?

Participating plan sponsors are eligible for reimbursement of eighty per cent of the claims incurred on and after June 1, 2010, under the health plan for health benefits, such as medical, surgical, hospital, and prescription drug benefits, of an early retiree (and his or her spouse, surviving spouse or dependents) between \$15,000 and \$90,000 (as indexed). Claims submitted under the program must be for claims and paid incurred during the applicable plan year for which reimbursement is requested. Claims for an early retiree cannot be submitted for reimbursement until the total paid healthcare claims for that early retiree (incurred during that plan year) exceed the cost threshold (\$15,000 for plan years beginning prior to October 11, 2011). In addition to the claims submitted for reimbursement which are in excess of the cost threshold, the submission must also include claims incurred by that early retiree which are below the cost threshold. This is to demonstrate that the cost threshold is met for that early retiree. Once the reimbursement is received by the plan sponsor, it must be used to reduce premiums, contributions, deductibles, or similar items of the plan. It cannot be used as revenue for the employer. ■

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