



LSG INSURANCE PARTNERS



Employer Compliance Alert

Early Retiree Reinsurance Program

HHS Guidance on Reinsurance Program

June 23, 2010

The Department of Health and Human Services issued an interim final rule implementing the Early Retiree Reinsurance Program, which was created by the Patient Protection and Affordable Care Act.

Under the reinsurance program, employers and plan sponsors are reimbursed for portion of the costs incurred in providing group health benefits to early retirees and their spouses, surviving spouses and dependents. The health care reform law allocated **\$5 billion to the reinsurance program.**

The regulations will be effective on June 1, 2010. The program ends, however, when all funds have been depleted, but in no case later than Jan. 1, 2014.

HHS regulators believe the department will receive more requests for reimbursement than there are funds to pay the requests. Consequently, employers and plan sponsors who are eligible for the funds will need to estimate their reimbursement amounts for the first two plan-years cycles in the application, so that officials can forecast total reimbursement amount. The government will not pay claims until an application is approved.

Health care attorneys at Ballard Spahr and HR consultants at Hewitt Associates have both outlined key provisions in the interim final rule that employers and plan sponsors should keep in mind. For instance:

HHS will reimburse an amount equal to 80% of the portion of health benefit costs attributed to claims that exceed \$15,000 (cost threshold) but are below \$90,000 for plan years starting on or after Oct. 1, 2011.

- The reinsurance program will be based in large part on the Retiree Drug Subsidy program, under which eligible employers have been receiving Medicare Part D subsidy payments for their retiree prescription drug plans.
- Employer-based plans must have in place programs and procedures that generate (or have the potential to generate) cost savings with respect to participants with “chronic and high-cost conditions,” such as diabetes and cancer.
- Claims eligible for reimbursement include the plan sponsor’s net cost of providing health benefits for early retirees, but do not include a plan sponsor’s or employee’s premium costs in providing insured health plan benefits.
- Early retirees are defined as former employees who are at least age 55 and not yet Medicare-eligible. However, early retiree claims may include costs attributable to a spouse, surviving spouse, and/or dependent, even if such person is under age 55 or Medicare-eligible.
- Plan sponsors must have written agreements with their health insurance issuer or employment-based plan to require such entity to provide information to HHS upon request. Also, plan sponsors must have in place policies and procedures to detect and reduce fraud, waste and abuse.

Applicants must explain to HHS how they expect to use any reimbursements received under the Program and must project reimbursements for the next two years. Reimbursements must be used to reduce plan costs, including the plan sponsor’s costs in providing the benefits. However, the plan sponsor must be able to show that the reimbursements will not reduce its level of support for the plan.

Helpful Links

The HHS site provides additional details regarding the reinsurance program. Below are some helpful links:

[Regulations](#)

[Fact Sheet](#)

[PowerPoint Presentation on Program](#)

[Application FAQ](#)

[Application Instructions](#)

[Application](#) (Draft version, final will be posted on HHS site later in June)

Applications Will Begin Being Accepted No Later Than June 30, 2010.
Check [HHS Website](#) for updates.

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