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Temporary Reinsurance Program: Sticker Shock for Employers

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Health Care Reform imposes a new fee on **group health plans** during 2014, 2015 and 2016. The purpose of this temporary fee is to establish a reinsurance pool for insurers in the **individual health insurance** market. By providing a reinsurance pool for these insurers, the goal is to lessen the risk for the insurers so that premiums for individual coverage will not increase because of the guaranteed availability of insurance in this market beginning in 2014.

IRS proposed regulations issued during December 2012 estimate that the fee for 2014 will be **$63 for each person** covered by a group health plan. The exact amount for 2014 will be determined later in 2014 when HHS can better determine the number of covered lives in group health plans for that year.

The total fee under the temporary reinsurance program is $25 billion over the three-year period. The payment of the total fee is front-end loaded, with $12 billion to be collected for 2014, $8 billion to be collected for 2015, and $5 billion to be collected for 2016. So the fee will decline over the three-year period.

CONTRIBUTING ENTITIES

If a group health plan is fully insured, the fee is paid by the insurer. If the group health plan is self insured, the fee is owed by the plan. It is anticipated that the TPA of a self-insured health plan will remit the fee on the plan's behalf. But, regardless of who actually sends the payment to HHS, the additional cost will be borne by plan sponsors and plan participants.

APPLIES TO MAJOR MEDICAL COVERAGE

The fee applies to a plan that provides major medical coverage. As a result, there are several types of health coverage which are *not* subject to the fee:

- Stand alone vision and dental plans
- Stand alone prescription drug plans
- HSAs
- HRAs that are integrated with a group health plan
- Medical flexible spending accounts (even if not an excepted benefit)
- Most employee assistance plans, disease management programs and wellness programs (if they do not provide major medical coverage)
- Hospital indemnity coverage
- Stop loss insurance

There is no exception to the fee for retiree only major medical plans. However, the IRS regulations clarify how the rules apply to a person who participates in an employer sponsored plan, but is also covered by Medicare. If the employer plan provides primary coverage, a fee must be paid for the person. But, if Medicare provides the primary coverage, no fee is required. (This latter rule exempts retiree plans provided as a supplement to Medicare.)

NUMBER OF COVERED LIVES

The fee is based upon the number of covered lives during the year, so it applies to both employees and dependents who participate in a plan. IRS regulations provide several alternative methods for counting the number of covered lives. These methods are generally based upon the average number of covered lives during the first nine months of the calendar year.

COLLECTING THE FEE

HHS will collect on a calendar year basis, regardless of the plan year for the group health plan. The contributing entity must provide information to HHS by November 15 regarding the number of covered lives during that year. HHS will then send an invoice to the contributing entity within 15 days of the submission of the annual enrollment count or by December 15, whichever date is later. The fee per person is the same for all group health plans.

The fee is payable within 30 days after receipt of the invoice. As a result, the first fee is likely to be paid in January 2015. The only good news is that the fee is tax deductible.

POSSIBILITY OF SUPPLEMENTAL STATE PROGRAM

A state is permitted to establish a supplemental reinsurance program in addition to the federal program. If a state does establish a supplemental program, it may charge additional fees to fully insured plans. But Health Care Reform does not provide authority for a state to assess fees from self-insured plans.

ACTION BY EMPLOYERS

Because the fee begins to apply during 2014, there is no immediate action required by employers. However, as employers plan for implementing Health Care Reform in 2014, this is an important cost that needs to be considered.