

HEALTH CARE REFORM EARLY RETIREE REINSURANCE PROGRAM

The Patient Protection and Affordable Care Act provides that health plan sponsors who offer health benefit coverage to Early Retirees, their eligible spouses, surviving spouses and dependents may be eligible for an 80% reimbursement of paid expenses between \$15,000 and \$90,000 per individual per plan year. \$5,000,000,000 has been allocated to fund this Reimbursement Program that becomes effective June 1, 2010.

It is anticipated that money will run out and the program will expire, therefore it is critically important that sponsors prepare information in advance of the June 1st deadline so that a complete and accurate application to Health and Human Services (HHS) can be filed as soon as they are made available (sometime in June 2010). A plan must first be “certified” by HHS before claims can be submitted for reimbursement.

An Early Retiree is defined as a Plan Participant who is no longer defined as an Active Participant in accordance with the terms of the plan, is at least age 55 and is not eligible for Medicare. The claims of spouses, surviving spouses and dependents of an Early Retiree are also available for reimbursement without regard to age or to whether they are Medicare eligible. A dependent is defined by the health plan and is unrelated to tax deductibility so it can include covered grandchildren and/or step children if provided for in the health plan.

Application Requirements

1. An Authorized Representative must be identified who has the legal authority to sign and bind the sponsor to a contract.

Action Item: Identify Authorized Representative.

2. Applicant's Tax Identification Number.

3. Applicant's name and address.

4. Contact's name, telephone number and address.

5. Signed plan sponsor agreement that includes:

- a. Assurance that the plan sponsor has a written agreement regarding the disclosure of information, data, documents and records to the Secretary, at a time and in a manner as prescribed by further guidance.

Action Item: Prepare written agreement.

b. Acknowledgement that the application is being submitted to obtain federal funds.

c. Attestation that policies and procedures are in place to detect fraud, waste and abuse within this Reimbursement Program.

Action Item: Create documentation and procedures.

d. A summary of how the sponsor will use any reimbursement such as reducing premium contributions, co-payments, deductibles, coinsurance, or other out-of-pocket expenses for any or all plan participants (not just Early Retirees et. al.) and/or to reduce health premium costs for the sponsor.

Action Item: Determine how money will be used now.

e. What procedures or programs the plan sponsor has, or will implement, that generate cost savings with respect to chronic (e.g. diabetes) and high cost (e.g. cancer) conditions. These are conditions that can result in claims of \$15,000 or more per year. Such programs and procedures do not have to be in place for every chronic or high cost condition.

Action Item: Determine whether such programs and/or procedures exist and if not create.

f. How the plan sponsor will demonstrate maintenance of its level of contribution to the plan.

Action Item: The preamble to the regulation describes this as “maintenance of effort” with respect to employer contributions. Written language should be developed.

g. Applicant must provide a projection of reimbursable expenses for the first two years of the plan.

Action Item: Actual claims from a recent 12 month period should be accumulated for the Early Retiree (et. al.) group and projected forward with health care trend rates in order to estimate projected reimbursements for the first 2 year period of the Reimbursement Program.

h. Applicant must provide a list of all benefit options provided to Early Retirees (et. al.) that can be claimed for reimbursement.

Action Item: Benefit options are defined to mean a benefit design, category of benefits or cost-sharing arrangement. Identify benefit

options available to Early Retirees (et. al.) and prepare summaries.

- i. Applicant must specify the beginning and end (month and day) of the plan year.

Other Considerations

Reimbursable claims include all medical, surgical, hospital and prescription drug claims as well as claims for the diagnosis, cure, mitigation or prevention of physical or mental disease (not just claims related to chronic or high cost conditions).

- Only claims incurred and paid for a plan year are reimbursable for that year.
- If claims are paid but there is some type of post-claim discount or settlement that is reimbursed to Fund, it must be reported and any reimbursement must be repaid.

Action Item: Consider drug rebates that aren't determined until end of plan year. Establish procedures to identify the claims now!

- Identification of the surviving spouse of a deceased Early Retiree may be a challenge.
- If claims are to be submitted by an insurer or drug vendor, consideration must be given to whether that organization can identify Early Retirees (et. al.).

Action Item: If that organization has no way of identifying the Early Retiree (et. al.) group, take steps to provide them with this information immediately. It is unclear how the organization will coordinate this effort with the plan sponsor.

The Reimbursement Program will become effective for the plan year that contains June 1, 2010. Claims that were incurred prior to June 1, 2010 can be used to reach the \$15,000 cost threshold. Once an Early Retiree's (et. al.) claims total \$15,000+, all claims to that point must be submitted. Only claims incurred after June 1, 2010 are reimbursable. The claims submitted must include:

- the health benefit for which the claim is being submitted
- the incurred date
- identity of the individual claimant
- the date and amount of payment. This can include any amount of co-payment, deductible or coinsurance paid by the Early Retiree (et. al.) but only if the sponsor has proof that the amount had been paid (i.e. receipt).

Action Item: Begin an accumulation of claims by individual for the plan year that includes June 1, 2010 so that following application and certification by HHS, any new claim for an Early

Retiree (et. al.) over \$15,000 can be submitted as soon as possible. Determine what procedures may exist for “proof” that the retiree paid a co-payment, deductible or coinsurance. If no procedure exists, either create one or do not submit that portion of claims.

The plan sponsor must maintain records related to the Reimbursement Program for a period of 6 plan years following the end of the plan year for which the reimbursement was sought.

Action Item: Retention policies should be reviewed to make certain that records are maintained.

Summary

Because only \$5,000,000,000 has been allocated to this Reimbursement Program, reimbursements are on a first come, first serve basis. As a result, it is critically important to establish procedures and systems that would permit the Fund to:

- identify all Early Retirees, spouses, surviving spouses and dependents who will be in coverage on June 1, 2010 as quickly as possible,
- coordinate efforts with insurer or drug vendor if necessary,
- identify the accumulation of all paid claims for the above from the beginning of the plan year that includes June 1, 2010 through June 1, 2010, and
- develop a system to immediately identify any claim paid for the above for any dollar above \$15,000 and below \$90,000 as soon as that claim is paid so that all claims for the plan year to that point can be submitted as soon as possible.

As always, Beyer-Barber Company is available to help you coordinate this effort with staff, legal counsel and insurer or other provider.



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