



update

Compliance News for Plan Sponsors

October 7, 2015

Affordable Care Act's Transitional Reinsurance Fee Submissions Must Be Filed Soon

The Affordable Care Act¹ created a three-year transitional reinsurance program that reimburses certain health insurers in the individual market for losses they sustain when they enroll individuals who are higher-cost claimants. Health insurers and group health plans must contribute to this program by paying fees over a three-year period. 2014 was the first year for which these fees were assessed. The submission required for the second year's fees must be filed by November 16, 2015, using the same online process used for last year's submissions (*i.e.*, via www.pay.gov).²

Overview of Reinsurance Program Fees

The fees are assessed on plans that provide major medical coverage. The fees are paid on a per-person basis for each "covered life" under the plan, including dependents. For 2015, the fees are \$44 per covered life, with payments due in 2016. (For 2016, the fees will be \$27 per covered life, with payments due in 2017.) The fees are determined based on the plan's enrollment count during the first nine calendar months of the year, regardless of the plan's actual plan year. Enrollment counts for the first nine months of 2015 will be filed in November 2015 with payment made in 2016.

Submission Process for 2015

The official online form that needs to be completed is called the 2015 ACA Transitional Reinsurance Program Annual Enrollment and Contributions Submission Form (the 2015 Form). It became available online on October 1, 2015. CMS has posted a web-based training to assist plan sponsors in completing the 2015 Form.³ Plan sponsors will have to count enrollment in the plan for the first nine months of 2015, using either the same method as 2014 or any other permissible method.⁴ If the plan sponsor is reporting for itself there is no need to upload supporting documentation with the Form as was required last year.



Health Compliance News Highlights:

- The submission for this year's transitional reinsurance fees must be filed by November 16, 2015.
- Plan sponsors will submit their enrollment count using www.pay.gov again this year.
- In a major change from last year, self-administered plans that are self-insured are exempt from the fees.

¹ The Affordable Care Act is the shorthand name for the Patient Protection and Affordable Care Act (PPACA), Public Law No. 111-48, as modified by the subsequently enacted Health Care and Education Reconciliation Act (HCERA), Public Law No. 111-152.

² For background information on this process, see Sibson Consulting's July 29, 2014 *Capital Checkup*, "[Final Rule on the Affordable Care Act's Transitional Reinsurance Program Fees](#)." The Centers for Medicare and Medicaid Services (CMS) has a [webpage](#) that links to material about the reinsurance program and contribution process.

³ Registration to use this [technical assistance portal](#) is required. CMS has also developed a [glossary of key terms](#).

⁴ CMS has posted on its website a [detailed memorandum illustrating the counting methods](#).

Plan sponsors that relied upon a third-party administrator (TPA) to do the submission for 2014 and intend to do the same this year should contact their TPA immediately to make sure the TPA is prepared to handle this for 2015.

Major Change for Certain Self-Administered Plans

Plans that are self-administered and self-insured are not required to pay the fees in 2015 or 2016. To be regarded as self-administered, self-insured plans must retain responsibility for claims processing, claims adjudication (including internal appeals) and enrollment.

Additional exceptions permit a self-insured group health plan to use a third-party administrator (TPA) in the following limited circumstances, but still avoid paying the fee if:

- It uses a TPA only for pharmacy benefits or for certain ancillary benefits (e.g., limited-scope dental/vision).
- It uses a TPA for a *de minimis* amount of services (up to 5 percent).⁵
- It uses a TPA to obtain or lease a provider network, and obtain provider network development, claims re-pricing, and similar services.

Based on information currently available from the Department of Health and Human Services, plan sponsors eligible for the self-administered exemption do not need to take affirmative action to claim it. In other words, no filing or submission is required for 2015 fees.

Implications for Plan Sponsors

Plan sponsors should get ready to complete the submission process before the November 16, 2015 deadline. Plan sponsors that may be eligible for the exemption for self-administered, self-insured plans should work with legal counsel to determine if it is applicable.

⁵ The 5 percent is based on either the number of transactions processed by the TPA or the value of the claims processing and adjudication and plan enrollment services provided by the TPA.

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