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Transitional Reinsurance Fee Updates

The Patient Protection and Affordable Care Act (PPACA) created a transitional reinsurance program (TRP) fee to help partially offset the risk of high-cost individuals and control insurance premium increases once health insurance exchanges become available in 2014. During the first three years that the exchanges are operational (2014 through 2016), fully-insured plans and plan administrators (on behalf of self-insured group health plans) will pay $25 billion in contributions to be allocated among insurers that cover high-cost individuals, with the goal of minimizing premium increases associated with covering those individuals. This TRP fee imposes a significant cost to employers, employees, their families and retirees covered by former employers, none of whom will receive any of the benefits of the exchanges.

Proposed regulations were recently issued that include additional rules and changes related to the TRP program. See our Update for details on the basic TRP rules. We have summarized below the changes to the rules that will most affect self-insured plan sponsors.

Contribution Rate

A self-insured health plan determines its TRP contribution by multiplying the “national contribution rate” by the number of covered lives for the year. For 2014, the rate remains $63 per covered life. For 2015, the contribution rate is now set at $44 per covered life. HHS will set the contribution rate for 2016 at a later date.

Definition of “Major Medical Coverage”

A plan only has to make TRP contributions with respect to covered lives in “major medical coverage.” Therefore, a plan does not have to make TRP contributions with respect to supplemental coverage (such as health FSAs or EAPs) offered along with major medical coverage. The new rules define “major medical coverage” to mean “health coverage for a broad range of services and treatments provided in various settings that provides minimum value” (i.e., covers at least 60% of allowed costs). Because most self-insured group health plans provide minimum value, this definition is unlikely to change a plan sponsor’s TRP contribution amounts. Final regulations may clarify a plan’s contribution obligations when the plan includes an option that does not provide minimum value.

Exemption for Self-Insured Self-Administered Plans for 2015 and 2016

Union plans have pushed for an exemption from this onerous TRP tax and it now appears the Administration has approved a partial exemption for certain union (Taft-Hartley/multiemployer) plans from the TRP fee. Under the new rules, applicable plans will be required to pay reinsurance payments in 2014, but they will be exempt from such payments in years 2015 and 2016. Specifically, the rules now exclude "self-insured, self-administered plans" that do not use a third party administrator (TPA) in connection with claims processing, adjudication, or enrollment from the requirement to make TRP contributions for the 2015 and 2016 years. The vast majority of self-insured plans (including many union plans) will be unable to qualify for the exemption as proposed because of their use of TPAs, so it is expected that this exemption would apply to very few plans, given that most self-insured group health plans use TPAs for at least one of these functions.

Schedule for Fee Collection

The rules set forth a new schedule for the collection of the fee in two payments each year:

- For 2014, a plan submits its enrollment count by November 15, 2014, and HHS provides an invoice for $52.50/covered life in December 2014, payable within 30 days (i.e., in January 2015). HHS provides an invoice for another payment of $10.50 per covered life in the fourth quarter of 2015, payable within 30 days.
- For 2015, a plan submits its enrollment count by November 15, 2015, and HHS provides an invoice for $33/covered life in December 2015, payable within 30 days (i.e., in January 2016). HHS provides an invoice for another payment of $11/covered life in the fourth quarter of 2016, payable within 30 days.

HHS also is considering allowing the option to make the entire contribution in one installment per year.

Audits

The proposed regulations include authority to audit group health plans and insurers to determine compliance with the TRP requirements. HHS anticipates that audits will focus on confirming correct counting of the number of covered lives and identifying entities that were required to but did not make contributions. HHS will provide additional details of the audit program in future guidance.

This fee will result in additional costs for employer plan sponsors and, depending on whether the plan at issue is self-administered, certain additional reporting obligations. Should you have questions about this or any aspect of healthcare reform, contact your Conner Strong & Buckelew account representative toll free at 1-877-861-3220. For a complete list of Legislative Updates issued by Conner Strong & Buckelew, visit our online Resource Center.