United Actuarial Services, Inc.
Actuaries and Consultants

2009-9

January 27, 2009

RESEARCH MEMO

CMS Audits Health Plans Receiving Part D Retiree Drug Subsidy

The Centers for Medicare and Medicaid Services (CMS) has begun auditing group health plans (Plans or Plan) that participate in the Retiree Drug Subsidy (RDS) program. This *Research Memo* will take a look at information requested in such audits. The RDS website can be found at: *http://rds.cms.hhs.gov/.*

Due to the short time allowed to supply requested documents, audit letters require IMMEDIATE and DETAILED ATTENTION.

These RDS audits begin with a document request letter to the Plan Sponsor/Administrator. An initial response is due 15 days within receipt of the letter. The preferable form of response is via email with electronic files attached, although a paper response via surface mail is acceptable. If additional documents are requested they must be provided within 10 days of the request. The process is discussed in more detail below.

Authority for Audits

CMS' authority for such audits is found at 42 USCA § 1395w-132 and federal regulations at 42 CFR §423.888(c) and (d), which requires a Plan Sponsor participating in the RDS program, or an administrator of the Plan designated by the Plan Sponsor, to maintain (and provide CMS access to) any records for purposes of audits and other oversight activities necessary to ensure the *adequacy of prescription drug coverage* and the *accuracy of payments* made under the program.

Additionally, the Plan Sponsor's recordkeeping and access rules under 42 USCA § 1395w-132 also apply to the Plan's actuarial equivalence calculations and attestations. General information about RDS audits and the specific documents requested is discussed below.

Prepared by Mike Ewing, J.D.
Director of Research
United Actuarial Services, Inc.
(317) 580-8659 • Fax (317) 580-8651
email: mewing@unitedactuarial.com

In General

The Office of the Actuary (OACT) at the CMS is undertaking a review of attestations of actuarial equivalence for Plan Sponsors accepting an RDS under the Medicare Drug Program for various contract years such as: 2006, 2007 and/or 2008. The Plan Sponsor of a multiemployer plan is the joint board of trustees (Trustees). If a Plan is selected for this review, CMS begins with an actuarial assessment of the *work papers* and *documentation supporting the actuarial attestation*. Upon completion of the actuarial assessment, the Plan may be selected for a more detailed actuarial review or actuarial audit.

One firm CMS has contracted with to conduct the work on the actuarial assessment, actuarial review, and actuarial audit is the Actuarial Research Corporation (ARC). During CMS audits, ARC assesses the *reasonableness* of *documentation* in consideration of the *CMS Retiree Drug Subsidy Program Guidance* and *professional actuarial standards of practice* to determine whether a Plan has demonstrated a reasonable basis for the actuarial attestation. At the conclusion of the review, the Plan will be provided with the outcome of the assessment.

CMS will inform the Plan if the summary report or other prepared materials appear to provide sufficient support for the attestation, and whether the Plan has been selected for further actuarial review or actuarial audit. According to CMS, it is possible that a Plan may be selected for additional review or audit even when the initial assessment has determined that the work papers appear to provide sufficient support for the attestation.

Specific Documentation Requested

CMS requires that the Plan provide a **complete copy of the summary report** or other proposed materials supporting the actuarial attestation for the years under audit. The information provided is expected to **include any or all the following**:

(i) a copy of the formal attestation document.

(ii) documentation supporting both “prongs” of the attestation, including:

a. a summary of plan provisions,

b. total plan costs and retiree contributions,

c. participant data,

d. actuarial assumptions and methods, and

e. documentation of actuarial equivalence.

(iii) any reports to the Plan Sponsor that cover these items.

How To Respond to the Document Request

CMS prefers an email response with electronic files attached, although a paper response via surface mail is acceptable.

The requested information must be *received*, or *postmarked* if sent by U.S. Mail or other mail services by CMS no later than **15 days** from the date of the request letter. Responding parties can email electronic Excel, Word, or Adobe PDF files to *RDS_OACTreview@cms.hhs.gov* at CMS' Office of the Actuary **and,** for those Plans audited by ARC, to *RDS@aresearch.com* at ARC.

CMS urges Plan Sponsors to make every effort to provide the **complete document** the Plan Sponsor relied upon to support the attestation (i.e. created at the time you prepared the attestation). Submission of a complete document is crucial because the submission will serve as the **sole basis** for the assessment phase of the review. This submission will require the active participation of the actuary and/or actuarial firm that performed the Part D attestation of actuarial equivalence of the Plan's prescription drug benefit. The Part D attestation of actuarial equivalence is necessary for the Plan to receive the Medicare Part D subsidy.

According to CMS, it will ***not accept changes or additions throughout the actuarial assessment***. However, the CMS document *request indicates that additional explanation is welcome* - provided that it explains documentation that was created at the time the attestation was submitted.

Immediate Action Item

As part of the document request letter, CMS requests that the recipient provide **immediate *email notification*** of *receipt of the document request letter* to *RDS_OACTreview@cms.hhs.gov* and *RDS@aresearch.com*.

The communication must provide the name of the person(s) who will act in the capacity of review coordinator for the Plan Sponsor **if** the Plan is selected *for additional actuarial review* or audit activities.

The review coordinator will receive notification from the CMS auditor related to any additional actuarial review or audit activities and the specific documentation needed. Additional information requested throughout this process **must** be received by both CMS and the CMS auditor no later than **10 days** from the date of any follow-up request.

Forewarned is forearmed. Plan sponsors and their actuarial professionals will want to make sure they keep the proper documentation on hand and well-organized in the event their Plan is chosen for such an audit.

* * *