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BENEFIT NEWS BRIEFS

Health Exchange Reinsurance Requirements Under ACA Requires Fees To Be Paid By Self-Insured Group Health Plans

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The Department of Health and Human Services (HHS) has published a final rule implementing standards for health insurance issuers and third party administrators for self-insured group health plans related to reinsurance, risk corridors and risk adjustment consistent with Title I of the *Affordable Care Act (ACA).* Of great interest under the rule, HHS will collect new fees from health insurance issuers and from third party administers (TPAs) on behalf of their client *self-insured plans* from 2014-2016.

What is not clear is if self-administered, self-insured group health plans must pay a reinsurance fee, or if the fee is only owed by self-insured plans that use a TPA. A self-administered plan is also referred to as having a “salaried administrator” or “in-house” plan. In the proposed regulation, self-administered self-insured group health plans were deemed to be TPAs and would owe the fee, but in the final regulation, that discussion was dropped and it is unclear if self-insured, self-administered plans might be exempt from the fee. The Research Department is seeking clarification from HHS staff regarding this issue. One would suspect such plans will be required to pay the fees, which have yet to be set.

The law calls for *reinsurance fees* to be collected in the following amounts:

(1) Reinsurance payments that will total, on a national basis, $10 billion in 2014, $6 billion in 2015, and $4 billion in 2016;

(2) U.S. Treasury contributions that will total, on a national basis, $2 billion in 2014, $2 billion in 2015, and $1 billion in 2016; and

(3) Administrative expenses of the applicable reinsurance entity or HHS when performing reinsurance functions.

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HHS will collect the fees from self-insured plans and third-party administrators on their behalf. According to the *Preamble*, this policy is consistent with traditional Federal oversight of self-insured plans. The *Preamble* to this regulation explains that these programs will mitigate the impact of potential adverse selection and stabilize premiums in the individual and small group markets as insurance reforms and the Affordable Insurance Exchanges (''Exchanges'') are implemented. Beginning in 2014, individuals and small businesses will be able to purchase health insurance through the Exchanges. For more information, see: *http://www.healthcare.gov/law/features/choices/exchanges/index.html.* In short:

- The transitional State-based *reinsurance program* will serve to reduce uncertainty by sharing risk in the individual market through making payments for high claims costs for enrollees. *Section 1341 of the ACA*

- The temporary Federally administered *risk corridors program* serves to protect against uncertainty in rate setting by qualified health plans sharing risk in losses and gains with the Federal government. *Section 1342 of the ACA*

- The permanent State-based *risk adjustment program* provides payments to health insurance issuers that disproportionately attract high-risk populations (such as individuals with chronic conditions). *Section 1343 of the ACA*

The following chart from the *Preamble* summarizes these *ACA* programs:

Program	Reinsurance	Risk corridors	Risk adjustment
What	Provides funding to issuers that incur high claims costs for enrollees.	Limits issuer losses (and gains)	Transfers funds from lower risk plans to higher risk plans.
Program Operation	State option to operate, regardless of whether the State establishes an Exchange.	HHS	State option to operate if the State establishes an Exchange.
Who Participates	All issuers and third party administrators on behalf of group health plans contribute funding; nongrandfathered individual market plans (inside and outside the Exchange) are eligible for payments.	Qualified health plans	Non-grandfathered individual and small group market plans, inside and outside the Exchange.
Why	Offsets high cost outliers	Protects against inaccurate rate-setting.	Protects against adverse selection.
When	Throughout the year	After reinsurance and risk adjustment.	Before June 30 of the calendar year following the benefit year.
Time Frame	3 years (2014–2016)	3 years (2014–2016)	Permanent

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