

# The Early Retiree Reinsurance Program

Interim Final Rule with Comment Period

# What is it?

- The Early Retiree Reinsurance Program (ERRP) provides reimbursement to participating employment-based plans for a portion of the costs of health benefits for early retirees and early retirees' spouses, surviving spouses, and dependents. The program was authorized in the Affordable Care Act.
- The temporary program begins June 1, 2010.
- Funding is limited to \$5 billion.

# Who May Apply to Participate?

- Employers and unions that maintain, whether directly or through an insurer, an employment-based plan that provides health benefits to early retirees or the spouses, surviving spouses and dependents of early retirees.

# Who is an Early Retiree?

An “early retiree” is a plan participant who:

- Is age 55 or older;
- Not eligible for coverage under Medicare; and
- Is not an active employee of the employer maintaining, or contributing to the maintenance of, the plan.
- Is enrolled for health benefits in a certified employment-based plan.

In the regulation, spouses, surviving spouses, and dependents of such retirees are each considered “early retirees.”

For the full definition, please see 45 CFR 149.2

# What is an employment-based plan?

- An employment-based plan is a group health plan that is maintained by:
  - One or more current or former employers (including any state or local government , or political subdivision),
  - An employee organization, such as a union or committee that administers a voluntary employees' beneficiary association, or
  - A committee or board of individuals appointed to administer one of the plans above.
- An employment-based plan can also be an multi-employer plan.

# Requirements for Participation

- A plan sponsor must submit an application to the Secretary.
- Sponsor and plan(s) must be certified by the Secretary, and the application approved.

# Application includes:

- Applicant's Tax Identification Number,
- Applicant's Name and Address,
- Contact name, telephone number and email address,
- Signed plan sponsor agreement,

# Application- cont'd

A summary indicating how the applicant will use any program reimbursement to meet the requirements of the program, including how the reimbursement received will be used to reduce plan participant and/or the employer's/ union's health benefit or health benefit premium costs.

An applicant will also have to provide a summary of:

- What procedures or programs the sponsor has in place that have generated or have the potential to generate cost savings with respect to plan participants with chronic and high-cost conditions; and

- How the sponsor will maintain its level of contribution to the applicable plan.



# Application- cont'd

- Projected reimbursement amounts for the first two plan year cycles (with specific amounts for each of the first two cycles).
- A list of all benefit options within a plan under which the sponsor may receive reimbursement.

# What is a plan sponsor agreement?

- The plan sponsor agreement is an agreement that is signed by an authorized representative of an applicant that includes provisions relating to:
  - Disclosing information;
  - Acknowledging that information is being provided to obtain Federal funds, which includes an acknowledgement that subcontractors are aware that the information they provide is for the purpose of obtaining Federal funds;
  - Attesting to fraud, waste, and abuse procedures;
  - Agreeing to comply with all applicable program requirements.

# Processing of Applications

- Applications will be processed in the order in which they are received.
- An application that does not meet the requirements will be denied and the applicant will have to submit a new application.
- A separate application for each year for a given plan is not required. Just need the start and end month and day of the sponsor's plan year.
- A separate application is required for different plans.

# When will applications be available and where are they sent?

-Applications will be available in June.

-We are in the process of determining how, when, and where applications will be sent.

# Reimbursement Requests

- Once the employer or union (sponsor) and its plan(s) are certified by the Secretary and the application is approved, the sponsor may make one or more requests for reimbursement (HHS to announce form and manner of making requests.)
- A reimbursement request includes:
  - A list of early retirees;
  - Documentation of actual costs for items and services;
  - Prima facie evidence that early retiree (or the early retiree's spouse, surviving spouse or dependent) paid his or her share of the costs (if the sponsor is requesting credit or reimbursement for the amounts paid by these plan participants).

# How much will the reimbursement be?

-80% of claims costs for each early retiree (or early retiree's spouse, surviving spouse or dependent), for claims incurred for that individual between \$15,000 and \$90,000 during a plan year, and paid.

-A sponsor can receive credit/reimbursement for the portion of claims paid by the insurer or health plan, as applicable, and by the early retiree and early retiree's spouse, surviving spouse, or dependent.

## Reimbursement formula for plans with plan years that begin before June 1, 2010, but end after June 1, 2010

- Claims incurred before June 1, 2010 up to \$15,000 count towards the \$15,000 threshold and \$90,000 limit.
- Claims incurred before June 1, 2010 that are above the \$15,000 threshold do not count towards the \$90,000 limit.
- The Secretary will not reimburse for claims incurred before June 1, 2010.
- The Secretary will reimburse claims incurred after June 1, 2010 between the \$15,000 threshold and the \$90,000 limit.

# For what can the reimbursements be used?

- To reduce the sponsor's health benefit premiums or health benefit costs;
- To reduce health benefit premium contributions, copayments, deductibles, coinsurance, or other out-of-pocket costs for plan participants; or
- To reduce any combination of these costs.





Reimbursements cannot be  
used as general revenue.

# Appeals

- A sponsor can appeal the partial or complete denial of a reimbursement request.
- Must appeal within 15 calendar days of receiving an adverse reimbursement determination.
- It is a one-step appeal, directly to the Secretary.
- Can not appeal denials based on the unavailability of funding.

# Disclosure of Data Inaccuracies

- Not an appeal.
- Used when information that was submitted for reimbursement becomes inaccurate after reimbursement has been made.
- For example, if a sponsor collects post-point-of-sale price concessions after a reimbursement request has been paid, sponsor must report the price concession.
- The reporting process to be announced.
- The Secretary can reopen and revise a reimbursement determination on her own motion.

# Change of Ownership Requirements

- Change of ownership consists of:
  - Certain changes in the members of a partnership.
  - Certain asset sales.
  - Corporate mergers resulting in a new corporate body.

# Change of Ownership Requirements- cont'd

- Sponsor must give 60 days advance notice of a change in ownership.
- If there is a change in ownership that transfers liability for health benefits, the existing sponsor agreement is automatically assigned to the new owner.
- The new owner is then subject to the requirements of this program.



Questions?

# Further Questions

## Contact:

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