



AMERICAN BENEFITS COUNCIL

August 15, 2012

SPECIAL ALERT: PPACA TRANSITIONAL REINSURANCE FEE TO BE ASSESSED ON INSURED AND SELF-INSURED HEALTH PLANS

As we reported in the [April 10 Benefits Byte](#), starting in 2014 the Patient Protection and Affordable Care Act (PPACA) imposes a fee that will affect sponsors of both insured and self-funded health plans. This new fee is intended to stabilize premiums for coverage in the individual insurance market, and it appears rather certain that it will be substantial. On August 7, the Council hosted a “P4P ... Preparing for PPACA” webinar to more fully describe this new requirement. Given the significant cost impact of the fee on plan sponsors, we are taking this opportunity to send another communication about this matter and a link to a recording of our recent webinar, in case you or colleagues in your company missed it.

Under Section 1341 of PPACA, each state may establish a transitional reinsurance program to help stabilize premiums for coverage in the individual market during the first three years that the state health insurance exchanges are operational (2014 through 2016). If a state chooses not to establish a reinsurance program, HHS will do so for such state.

Under the statute, the program is to be financed through “contribution funds from contributing entities,” meaning *a quarterly reinsurance assessment (RA) on health insurance issuers and third party administrators on behalf of self-insured group health plans*. The final regulations clarify that the RA is based on the number of enrollees covered by the plan, including employees and non-employee beneficiaries such as spouses and dependents. The final regulations also address the timing, method and other aspects of the RA as it applies to these plans. ([A summary of the program guidance](#), prepared by Crowell & Moring LLP, is available on the Council website.)

Although the U.S. Department of Health and Human Services (HHS) is not expected to announce the final assessment amount until later this fall, *preliminary projections estimate that the annual fee could be at least \$60 per covered life in an insured or self-*

insured health plan and this amount could even be higher depending on the methodology the agency uses to calculate the assessment.

The final per-capita number is expected to be based on a formula of the required reinsurance contributions on a national basis as set under the statute plus additional US Treasury contributions divided by the number of individuals in insured and self-insured plans.

The required contributions (the numerator) total \$25 billion, are broken down as follows: \$12 billion for 2014, \$8 billion for 2015 and \$5 billion for 2016.

It remains very unclear how the number of individuals with insured or self-insured coverage (the denominator) will be determined. Although it appears that HHS will use census data to generate the denominator, it is unclear as to the exact data that will be used and how it might be adjusted.

Other details to note:

- The only types of coverage expressly excluded from application of the RA are HIPAA-excepted benefits under the Public Health Service Act (these include for example, limited scope dental and vision benefits that are offered separately).
- While neither the statute or regulations are entirely clear regarding liability for the fee with respect to self-insured plans, it appears that the self-insured plan is ultimately liable for the fee and the third party administrator is responsible for remitting the contribution on the plan's behalf.
- States may collect additional fees with respect to individual, small and large group *insured* coverage but are not expressly permitted to do so for self-insured coverage.

Because many plan sponsors may not have included this assessment in their financial projections for 2014 through 2016, it is vitally important that health plan sponsors be aware of the reinsurance program fee and consider its implications. As noted above, the Council hosted a "P4P ... Preparing for PPACA" webinar on this subject on August 7, featuring Seth Perretta from Crowell & Moring LLP. [Presentation slides](#) and [a digital playback](#) are available for Council members who were unable to participate in the original session.

The Council is communicating with senior officials at HHS and the White House regarding the calculation methodology, and other means for mitigating the cost impact and minimizing the administrative burden for employers. We have urged the government officials to clarify these and other questions regarding compliance with the fee requirements. The Council welcomes your comments and questions on this matter as we continue this dialogue. For more information, or to provide feedback, contact [Kathryn Wilber](#), senior counsel, health policy, at (202) 289-6700.