

# Legislative Brief

## HCR - REINSURANCE CONTRIBUTIONS

October 2015

### ACA REINSURANCE CONTRIBUTIONS DUE NOV 16, 2015

#### SUMMARY:

- Employers who sponsor self-funded health plans that offer major medical coverage providing minimum value must report the number of covered lives under those plans and schedule the plan's reinsurance contribution payment via a form on [www.pay.gov](http://www.pay.gov) by November 16, 2015.
- CMS has issued the 2015 ACA Transitional Reinsurance Program Annual Enrollment and Contributions Submission [Form](#) (available at [www.pay.gov/public/form/start/70746962](http://www.pay.gov/public/form/start/70746962)). Training regarding the form is available upon registration at [www.regtap.info](http://www.regtap.info).

#### Background

The Affordable Care Act created a transitional reinsurance program to help stabilize premiums for coverage in the individual market for a three year period that runs from 2014 to 2016. Contributing entities are required to report plan enrollment annually and remit payment based upon a national contribution rate that is multiplied by the number of covered lives.

#### Benefits Subject to the Reinsurance Contributions

Reinsurance contributions are required for major medical plans that provide "minimum value." Minimum value is generally defined as a plan that has an actuarial value of at least 60%. Major medical coverage includes health coverage for a broad range of medical services and treatments provided in various settings (e.g., inpatient, outpatient, or emergency room).

Since reinsurance contributions apply to major medical coverage providing minimum value, it is not applicable to the following:

- Health savings accounts (HSAs);
- Health flexible spending accounts (FSAs);
- Health reimbursement accounts (HRAs) that are integrated with a group health plan;
- Dental and vision plans that meet the requirements of being an excepted benefit;
- Self-funded or fully insured plans that solely consist of benefits for prescription drugs;
- EAPs, disease management or wellness programs not providing significant medical benefits;
- Stop-loss or indemnity reinsurance policies; and
- For individuals with employer-sponsored group coverage and other coverage (i.e. Medicare, individual policy or coverage under a spouse's plan), and the other coverage is primary.

Reinsurance contributions are also not required for expatriate health plans, TRICARE or other military health benefits, or tribal plans.

#### Contributing Entities are Responsible for Making Reinsurance Contributions

With respect to fully-insured coverage, issuers (health insurance carriers) are responsible for making reinsurance contributions. With respect to a self-funded group health plan, the plan sponsor (generally the employer) is responsible for making reinsurance contributions. If the plan funding changes from fully-insured to self-funded during the calendar year, the insurer/carrier and plan sponsor are each responsible for paying a pro rata portion of the fee. Insurers and plan sponsors are referred to as "contributing entities."

### Special Rules

- If a plan is partially insured and partially self-insured, the portion that provides major medical coverage is responsible for the reinsurance contribution.
- If a plan is fully insured and has multiple insurers, the insurer that provides the greatest portion of inpatient hospitalization coverage is responsible for the reinsurance contributions.
- Plans that are self-insured **and** self administered are exempt from the reinsurance contribution. Note: In order to qualify for this exemption your plan cannot use a third party administrator for core administrative functions. HHS expects few plans to qualify for this exemption.

### Submission Process for Reinsurance Contributions

- Reporting Covered Lives

Contributing entities must report the annual enrollment count (*i.e.*, number of covered lives under the plan) by November 16, 2015. Covered lives are all covered individuals, both employees and their dependents. For example, an employee who has family coverage including a spouse and one child would be counted as three covered lives. To determine the number of covered lives under the plan, there are four methods to choose from – actual count method, snapshot count method, the snapshot factor, or the Form 5500 method. The actual count method and snapshot methods (count or factor) generally consider data from January – September (regardless of the employer’s plan year), while the Form 5500 method considers data from the most recently filed Form 5500.

- The Process Self-funded Employers Must Follow to Pay Reinsurance Contributions

Contributing entities will access the “ACA Transitional Reinsurance Program Annual Enrollment and Contributions Submission Form” on [www.pay.gov](http://www.pay.gov) to enter the plan’s annual enrollment count. Registration on [www.pay.gov](http://www.pay.gov) is required in order to remit reinsurance contributions (go to <https://pay.gov/public/registration> to get started).

As mentioned, CMS updated the [form](#) for the 2015 benefit year. In preparation for reporting, a contributing entity (*i.e.*, the employer or insurer making the contribution) should collect data needed to complete the form, calculate the annual enrollment count and prepare any required supporting documentation (generally supporting documentation is only required if the reporting is for four or more contributing entities, and it must be submitted with the form in .CSV file format). The form will auto-calculate the annual contribution amount to be remitted based on the annual enrollment (covered lives) count, and the contributing entity will then schedule payment for the calculated reinsurance contributions on the payment page.

- Paying the Fee

The reinsurance contribution rate for 2015 is \$44 per covered life and may be paid in either one payment or in two installments. Under the one payment plan, fees are due January 15, 2016. For covered entities making two payments, the first installment of \$33 per covered life is due by January 15, 2016; the balance of \$11 per covered life must be paid no later than November 15, 2016. Contributing entities may choose to pay the entire contribution in a single payment by the first deadline.

Employers with self-insured plans will need to either negotiate with their administrator to make payments on behalf of the plan or prepare to calculate and report applicable covered life information for the plan by November 16, 2015. Reinsurance fees may be paid from plan assets because the payment is required by the plan under the Affordable Care Act.

### Penalty for Late Payment of the Reinsurance Contributions

An employer’s obligation to pay the reinsurance fee is considered a federal debt, subject to federal debt collection rules. Failure to pay the fee on time could result in interest and penalties accruing on the amount of the fee owed. Additionally, contributions are considered Federal funds that would be subject to the False Claims Act.

**For more details on reinsurance contributions and the counting methods available, please contact the Compliance Department.**

Health Care Reform —the Affordable Care Act (ACA)—has many complex requirements for employers and health plans. Please contact Kapnick Insurance Group with any questions about how you can prepare for any of the health care reform requirements. This Kapnick Insurance Group Update is not intended to be exhaustive nor should any discussion or opinions be construed as legal or tax advice. The information contained in this communication is intended to provide general information regarding health care reform and related topics, and is based on general information available at the time it was prepared. Readers should contact their tax and/or legal counsel for advice that is appropriate to their specific circumstances. This information cannot be used by any taxpayer to avoid tax penalties.

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