

**FEDERAL HEALTHCARE REFORM:
PATIENT PROTECTION AND AFFORDABLE CARE ACT
EMPLOYER EARLY RETIREE REINSURANCE**



On Tuesday, March 23, President Obama signed into law the “Patient Protection and Affordable Care Act” (“PPACA”). A reconciliation bill making changes to the Act was signed by the President on March 30. The PPACA as amended by the reconciliation bill is collectively referred to as the Act in this summary. This summary provides an overview of the employer early retiree reinsurance program.

Summary: This federal program provides a “reinsurance” payment to employer-sponsored group health plans to subsidize the cost of providing coverage to early retirees. (§ 1102 of PPACA)

Scope: Applicable to all group health plans, in both small and large group, whether insured or self funded and appears to apply without regard to whether the plan is grandfathered. It also includes state and local governmental plans.

Effective Date: Within 90 days of the date of enactment, the Secretary of Health and Human Services (HHS) is to start the program. The program continues until January 1, 2014 or until it exhausts the allocation of \$5 billion.

Program Details: Group health plans are eligible be reimbursed 80% of claims between \$15,000-\$90,000 incurred by an early retiree or the spouse, surviving spouse, or dependent of such retiree. Claims may include medical, surgical, hospital, drug, and other costs as determined by HHS. ”Early retirees means individuals who are age 55 and older but are not eligible for coverage under Medicare, and who are not active employees of the employer or another employer funding a plan.

Other Key Provisions In order to be eligible for the program, the group health plan must submit an application for participation to HHS; one criteria noted in the Act is that the plan must have documented programs to generate cost-savings with respect to participants with chronic and high-cost conditions. The plan will also be required to submit documentation of the actual cost of the items and services for each claim for which reinsurance is requested.

In calculating the claims, the group health plan is to take into account any negotiated price concessions which is defined here as including direct or indirect subsidies, rebates, and direct or indirect remunerations. Also, the claims calculation is to include amounts paid in the form of deductibles, co-payments, or co-insurance.

The reinsurance payments are to be used to lower costs for the group health plan. This may include reducing premium costs for the employer or reducing premium contributions, co-payments, deductibles, co-insurance, or other out-of-pocket costs for the participants. The payments are not to be treated as general revenues for the plan sponsor. The reinsurance payment is not treated as gross income for the employer.

Open issues As of this writing, the HHS has not made program details available. Among other items, HHS will need to explain how the reinsurance program is to reduce premiums for fully insured groups where the funds are for claims paid by an insurer but the reinsurance is received by the employer.

References: PPACA: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h3590enr.txt.pdf

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