

CLIENT ALERT



October 17, 2016

ACA's 2016 Transitional Reinsurance Fee Submissions Must Be Filed Soon

The Affordable Care Act (ACA) created a three-year transitional reinsurance program that reimburses health insurers in the individual market (both inside and outside the Marketplace/Exchanges) for losses they sustain when they enroll individuals who are higher-cost claimants. Health insurers and group health plans must contribute to this program by paying fees over a three-year period. 2016 is the third and final year for which these fees will be assessed. The submission required for this final year's fees must be filed by November 15, 2016, using the same online process used for the two prior years (i.e., via www.pay.gov). The 2016 Reinsurance form for submitting the fees was added to that website on October 3, 2016.

OVERVIEW OF REINSURANCE PROGRAM FEES

The fees are assessed on plans that provide major medical coverage and are paid on a per-person basis for each "covered life" under the plan, including dependents. For 2016, the fees are \$27 per covered life, with payments due in 2017. The fees are determined based on the plan's enrollment count during the first nine calendar months of the year, regardless of the plan's actual plan year. Enrollment counts for the first nine months of 2016 must be submitted by November 15, 2016. The form that contributing entities are required to submit by this deadline must include the date(s) in 2017 that the payments will be made as one or two automatic debits from the entity's designated bank account.

SELF-INSURED PLANS THAT ARE SELF-ADMINISTERED ARE EXEMPT

As was the case for 2015, plans that are self-insured and self-administered are not required to pay the fees for 2016. To be regarded as self-administered, self-insured plans must retain responsibility for claims processing, claims adjudication (including internal appeals), and enrollment.

A plan will still be considered self-administered where the plan (1) uses a TPA only for pharmacy benefits or limited scope dental or vision; (2) uses a TPA for a de minimis amount of services (up to 5%); or (3) uses a TPA only to obtain or lease a provider network, and obtain certain network services. Plan sponsors eligible for the self-administered exemption do not need to take any action to claim it. In other words, no filing or submission is required for 2016 fees.

SUBMISSION PROCESS FOR 2016

The official online form that needs to be completed is called the 2016 ACA Transitional Reinsurance Program Annual Enrollment and Contributions Submission Form (the 2016 Form). It became available online on October 3, 2016. CMS has posted web-based materials to assist plan sponsors in completing the 2016 Form. Plan sponsors will have to count enrollment in the plan for the first nine months of 2016, using any permissible counting method. As was the case for 2015, if the plan sponsor is reporting for itself, there is no need to upload supporting documentation with the 2016 Form. Plan sponsors that relied upon a third-party administrator (TPA) to do the submission for 2015 and intend to do the same this year should contact their TPA immediately to make sure the TPA is prepared to handle this for 2016.

IMPLICATIONS FOR PLAN SPONSORS

Plan sponsors should prepare to complete the submission process by the **November 15, 2016** deadline. This is the last year of the program, and it cannot be extended unless authorized by Congress. Given the current political climate, and the questions about the Marketplace/Exchanges and the ACA, it is unlikely that Congress will act to reauthorize the program.

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