

Patient Protection and Affordable Care Act

The Maze to Early Retiree Claim Reimbursement

Do you sponsor a health plan for employees? Does it cover retirees who are 55 or older and not eligible for Medicare?

If your answer is “yes”, you may be eligible for reinsurance from the Federal Government.

The Patient Protection and Affordable Care Act (“PPACA”), provides for payment to the plan sponsor of 80% of a portion of the medical expenses incurred by such a retiree or spouse, surviving spouse or dependent children during a plan year. For each person, there is an annual deductible of \$15,000 and maximum reimbursement of \$60,000 (which is 80% of the difference between the \$15,000 deductible and the \$90,000 maximum expense). For plan years starting after September 2011, the deductible and maximums are increased by the percentage increase in the medical component of the CPI.

The money budgeted for reimbursement is limited to \$5 billion for all claims and will most likely run out before the January 1, 2014 expiry date of the program.

In order to be eligible to receive reimbursement, your plan must implement a number of programs and procedures which have generated savings or have the potential to save costs with respect to chronic and high cost (over \$15,000 for a participant in a plan year) conditions. In addition, the rules require that the plan sponsor must:

1. make available information, data, documents, and records as specified by U.S. Department of Health and Human Services (HHS);
2. have a written agreement with your health insurance carrier or employment-based plan (as applicable) regarding disclosure of information, data, documents, and records, to HHS;
3. ensure that policies and procedures to protect against fraud, waste and abuse under this program are in place; and
4. submit an application to HHS.

In order to be eligible for reimbursement, you must apply to HHS, using an application which HHS says will be available by the end of June 2010.

Once your application is approved, you can submit claims for reimbursement.

You must submit one application per plan, identifying the beginning and ending month and day of a plan year.

Applications will be processed in the order in which they are received. You must complete your application carefully and fully. Any omission will cause the application to be rejected. A resubmitted application will cause the plan sponsor to fall to the end of the line. Since funding is limited, and since HHS (and everyone else) expects more requests for reimbursement than there are funds, it is imperative you complete the application properly the first time.

Because this program is effective June 1, 2010, there is a special rule for claims incurred during a plan year which straddles June 2010. Those claims which are incurred prior to June 2010 can be counted toward the \$15,000 deductible. However only claims which were both incurred after May 2010 and which are in excess of the deductible will be reimbursed. For example, assume a calendar year plan in which a retiree has incurred \$25,000 of medical expenses through May 2010, and an additional \$6,000 in June 2010. The \$15,000 will have been reached and the program will reimburse 80% of the \$6,000..

In determining the amounts of claims for any given eligible individual, all costs for health benefits paid by the plan or by that individual for all benefit options with respect to a plan will be combined. The plan sponsor will need proof of payments by the individual.

Any reimbursement received by the plan sponsor must be used to reduce the costs of the plan. The money cannot be used by the plan sponsor as general revenues. The payment may be used to reduce the premium costs or to reduce premium contributions, copayments, deductibles, coinsurance, or other out-of-pocket costs for plan participants. The payments are not included in the plan sponsor's gross income.

This document is a simplification of a portion of the new laws and is not intended to be a complete summary or recital of the PPACA. Therefore, McGinn Actuaries Ltd. accepts no liability for the content of this document, or for the consequences of any actions taken on the basis of the information provided herein. We recommend that you review the PPACA in its entirety before completing an application for reimbursement.

You should rely on your legal counsel for authoritative advice and application of the extensive changes involved in PPACA, of which this early retiree reimbursement is a small part. McGinn Actuaries, Ltd. is willing to work with you and your attorneys in evaluating your plans and complying with the laws and regulations.

Although McGinn Actuaries, Ltd. is available to help you complete the application, we do not know whether our efforts, or anyone else's, will satisfy HHS' requirements. Therefore, we do not accept liability, financial or otherwise, for rejected applications; nor do we provide any guaranty an application will be accepted.

Note: The Office of Management and Business (OMB) has issued a preliminary application and has said it will stop taking applications once it thinks it has received a potential of \$5 billion in claims for the next two years.