

IN THIS ISSUE

Proposed
Reinsurance Fees
Will Cost Group
Health Plans

PAGE 1, 3

Vast Majority of
Employers Likely to
Keep Coverage in
2014

PAGE 1, 3

HHS Provides
Guidance on
Methods for De-
identifying PHI

PAGE 2

Final Guidance
Released on
Research Fees

PAGE 2

Proposed Reinsurance Fees Will Cost Group Health Plans

On Dec. 7, 2012, the Department of Health and Human Services (HHS) released proposed regulations to expand upon the Affordable Care Act's (ACA's) standards for reinsurance, risk corridors and risk adjustment programs.

The ACA's traditional reinsurance program is intended to help stabilize premiums for coverage in the individual market during the first three years of Exchange operation (2014 through 2016) when individuals with higher-cost medical needs gain insurance coverage. This program will impose a fee on health insurance issuers and self-insured group health plans.

The proposed regulations describe how much issuers and sponsors of self-insured plans would be required to pay under the...

CONTINUED ON PAGE 3

Vast Majority of Employers Likely to Keep Coverage in 2014

According to the International Foundation of Employee Benefit Plans' 2012 Post-Election Survey, 84 percent of U.S. employers are very likely to or definitely will continue providing employer-sponsored health insurance for all full-time employees in 2014, when the ACA-mandated exchanges open.

This number is higher than when individuals were asked the same question in June, possibly because many employers held off on making their decisions until after the presidential election.

Cited reasons for continuing to provide coverage include:

- Employee satisfaction and loyalty
- Retention
- Collective bargaining agreement

In addition to focusing on compliance, many organizations are delving deeper into making wellness a part of their culture, and...

CONTINUED ON PAGE 3



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HHS Provides Guidance on Methods for De-identifying PHI

On Nov. 26, 2012, HHS released technical guidance and a related webpage regarding methods for de-identification of protected health information (PHI) in accordance with the HIPAA Privacy Rule.

Because health information can be useful even when it is not individually identifiable, the Privacy Rule allows a covered entity to freely use and disclose information that neither identifies nor provides a reasonable basis to identify an individual.

HHS identified the following two available methods for satisfying the Privacy Rule's de-identification standard:

- A formal determination by a qualified expert (Expert Determination Method)
- The removal of specified individual identifiers as well as absence of actual knowledge by the covered entity that the remaining information could be used alone or in combination with other information to identify the individual (Safe Harbor Method)

Under the Expert Determination Method for de-identifying PHI, a person with appropriate knowledge of and experience with generally accepted statistical and scientific principles and methods for rendering information not individually identifiable does the following:

- Applies these principles and methods and determines that the risk is very small that the information could be used, alone or in combination with other reasonably available information, by an anticipated recipient to identify an individual who is a subject of the information
- Documents the methods and results of the analysis that justify this determination

Under the Safe Harbor Method for de-identification, a covered entity is protected if it does not have actual knowledge that the information could be used alone, or in combination with other information, to identify the subject of the information and specific identifiers are removed, including:

- Names, telephone numbers and Social Security numbers
- All geographic subdivisions smaller than a state
- All dates, except years, that are directly related to an individual
- Any other unique identifying number, characteristic or code, except those that are otherwise permitted by the privacy rule

Final Guidance Released on Research Fees

The ACA established a private, nonprofit corporation called the Patient-Centered Outcomes Research Institute (Institute). The Institute's task is to help patients, policymakers and health care providers make informed health decisions by advancing evidence-based medicine through comparative clinical effectiveness research (CER).

The ACA requires health insurance issuers and sponsors of self-insured health plans to pay fees, called CER fees, to help finance the Institute's research. These fees may also be referred to as PCOR or PCORI fees.

On Dec. 5, 2012, the IRS issued final regulations on the CER fees, which adopt the proposed regulations that the IRS issued in April 2012, with a few modifications.

Here's what you need to know about the final regulations:

- The CER fees apply for plan years ending between Oct. 1, 2012, and Oct. 1, 2019.

- The CER fees are based on the average number of covered lives under the plan or policy, generally including employees, their enrolled spouses and dependents.
- For plan years ending before Oct. 1, 2013, the CER fee is \$1 multiplied by the number of covered lives under the plan or policy, and for plan years ending between Oct. 1, 2013, and Oct. 1, 2014, the fee is \$2.
- CER fees generally apply to insurance policies providing accident and health coverage, and self-insured group health plans, with some exceptions.
- An HRA is not subject to a separate research fee if it is integrated with another self-insured plan providing major medical coverage, as long as the HRA and the plan are established and maintained by the same plan sponsor and have the same plan year.
- CER fees must be reported annually on IRS Form 720, and paid in full by July 31 of each year.

Proposed Reinsurance Fees Will Cost, cont.

...reinsurance program, and provide other important program details.

The regulations are only in the proposed stage and will not be effective until after they are issued in final form.

The regulations on transitional reinsurance fees provide:

- For self-insured group health plans, the plan sponsor is liable for paying the reinsurance fees, although a third-party administrator (TPA) or administrative-services-only (ASO) contractor may be used to make the fee payment

- The 2014 fee amount is proposed to be \$5.25 per covered life per month (\$63 per covered life per year)
- The national contribution rate will be announced each year by HHS

Under the proposed regulations, HHS would collect the reinsurance fees from issuers and plan sponsors in all states, including states that elect to operate their own reinsurance programs.

The proposed regulations would require issuers and plan sponsors to submit an annual enrollment count to HHS by Nov. 15 in 2014, 2015 and 2016. Within 15 days of this submission, or by Dec. 15, whichever is later, HHS would notify each issuer or plan sponsor of the amount of its required reinsurance contribution. The issuer or plan sponsor would be required to remit this amount to HHS within 30 days after the date of HHS' notification.

Employers Likely to Keep Coverage, cont.

...offering value-based health care and consumer-driven health plans.

A small number of employers plan to reduce staff or hiring efforts to avoid or limit ACA costs, but 4 percent of employers actually plan to hire more employees to help ensure ACA compliance.

Please contact your Brown & Brown Consulting representative for more information.

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