

update

Compliance News for Multiemployer Plans

October 10, 2016

Affordable Care Act's 2016 Transitional Reinsurance Fee Submissions Must Be Filed Soon

The Affordable Care Act 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).¹ The [required 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. The fees 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. Exceptions permit a self-insured group health plan to use a third-party administrator (TPA) in the following limited circumstances, but still avoid paying the fee if:

- It uses a TPA only for pharmacy benefits or for certain ancillary benefits (*e.g.*, limited-scope dental/vision).
- It uses a TPA for a *de minimis* amount of services (up to 5 percent).²
- It uses a TPA to obtain or lease a provider network, and obtain provider network development, claims re-pricing, and similar services.



Health Compliance News Highlights:

- The submission for this year's transitional reinsurance fees must be filed by November 15, 2016.
- Plan sponsors will submit their enrollment count using www.pay.gov again this year.
- As was true for 2015, self-insured plans that are self-administered are exempt from the fees.

¹ The Centers for Medicare and Medicaid Services (CMS) has a [webpage](#) with links to material about the 2016 contribution process.

² The 5 percent is based on either the number of transactions processed by the TPA or the value of the claims processing and adjudication and plan enrollment services provided by the TPA.

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.³ 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 that may be newly eligible for the exemption for self-insured, self-administered plans due to a change in their operations should work with legal counsel to determine if the exemption is applicable. Other plan sponsors should get ready to complete the submission process before the November 15, 2016 deadline.

The transitional reinsurance fee cannot be extended by the federal government unless authorized by Congress. Because of the controversial nature of the Marketplace/Exchanges created by the Affordable Care Act, and the fact that other financial assistance to individual insurance carriers has been modified by Congress, it is unlikely that an authorization would be forthcoming in the near future.

How Segal Can Help

Segal works with trustees and their fund counsel on compliance issues. Segal can help clients with their enrollment count and explain how to navigate the submission process.

Questions?

For more information about the Affordable Care Act's transitional reinsurance program, please contact your Segal consultant or the [Segal office nearest you](#).

³ These resources are available on the CMS webpage described in footnote 1.

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