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HHS Releases Additional Guidance on the ERRP Reimbursement Process

The Department of Health and Human Services (HHS) has provided plan sponsors approved for participation in the early retiree reinsurance program (ERRP) with guidance on preparing for the reimbursement process. Key preparatory steps include registering on the ERRP secure website and compiling early retiree lists and claims cost data for submission to HHS.

Background

The new health reform law includes a reinsurance program for early retirees (pre-Medicare) and their dependents under which employers can defray part of their retiree health insurance costs. (See our May 6, 2010 [For Your Information](#).) On June 29, 2010, HHS released the final application for the program along with FAQs, which provided limited information on claims submission and the reimbursement process. (See our July 9, 2010 [For Your Information](#).) To date, over 2,000 plan sponsor applications have been approved for ERRP participation.

BUCK COMMENT. *The status of approximately two thousand or more plan sponsors with applications still pending remains uncertain. Although HHS has a hotline for status inquiries, our understanding is that it has generally not provided specific reasons why an application has not yet been approved or when additional applications will be approved. However, HHS has indicated that it is continuing to review and approve applications.*

On September 17, HHS posted additional ERRP guidance on its [website](#). The guidance provides those plan sponsors with approved applications with details on registering with the ERRP secure website, compiling early retiree lists, and submitting claims cost data to HHS.

Registration on the ERRP Secure Website

Authorized representatives and account managers with approved applications will receive emails from HHS with registration links to register with the ERRP Secure Website (SWS). Because the SWS will be the primary means for sponsors to submit data and request reimbursement, registration should be completed as soon as possible.

Early Retiree Lists

HHS encourages plan sponsors to start preparing early retiree lists, which must be submitted to HHS before claims can be submitted for reimbursement. HHS indicates that detailed information on who can be claimed as an early retiree will be posted on the ERRP website within the next two weeks, and that the ERRP Center will begin accepting early retiree lists in early October.

BUCK COMMENT. *Not mentioned in the HHS guidance, but included in the application approval emails that some plan sponsors have received, is a requirement for plan sponsors to certify that claims will not be submitted for “plan participants who are not U.S. citizens or lawfully present in the U.S.” Determining this status, particularly for dependents, may be difficult for plan sponsors.*

Cost Data

HHS indicates that the ERRP Center will begin accepting claims cost data in mid-October, and encourages plan sponsors to begin preparing claims data for submission. To simplify submissions for reimbursement, plan sponsors will initially submit cost data on a plan basis and not on a benefit option level or on a medical item or service level. However, plan sponsors will need to supplement that data with corresponding claim-level data at a later date. HHS indicates that more detailed information on cost eligibility and the format for cost data submission will be posted on the ERRP website in the next few weeks.

HHS also reminds sponsors that only items and services covered by Medicare are eligible for reimbursement under ERRP. HHS is expected to post further guidance on this within the next two weeks.

BUCK COMMENT. *While being able to submit data on a plan basis rather than on a benefit option basis is welcome news, many carriers have indicated that they will not be able to combine medical and prescription drug data from different administrators for a single participant. This will potentially reduce ERRP reimbursements for plan sponsors.*

Participant Notice

Not mentioned in the posted guidance, but included in the application approvals received by some plan sponsors, is a requirement that a model notice be furnished to all plan participants notifying them that the plan is participating in ERRP and that payments may be used to reduce participant cost sharing. A model notice has not yet been released.

BUCK COMMENT. *While additional guidance is needed, it appears that this notice must be provided to all plan participants, which could include active employees as well as retirees. It may even be required if the employer is not sharing the ERRP payments with plan participants, which could cause confusion for participants.*

Conclusion

HHS has indicated that it will provide additional, detailed information on the reimbursement process in the next few weeks. Even though current guidance is limited, plan sponsors should begin discussions with their claims administrators on the early retiree claims and census data. Buck’s consultants can also assist in the collection and submission of retiree lists and claims data, including combining medical and prescription drug data from multiple administrators.

This FYI is intended to provide general information. It does not offer legal advice or purport to treat all the issues surrounding any one topic.