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PBCG News Alert

Health Care Reform

Reinsurance Fee Contribution Form Due Nov. 15

The Affordable Care Act (ACA) imposes a fee on health insurance issuers (or carriers) and self-insured group health plans in order to fund a transitional reinsurance program for the first three years of health insurance exchange operation (2014-2016). The program is intended to help stabilize premiums for coverage in the individual market when individuals with higher-cost medical needs gain coverage.

For the 2016 benefit year, the regulatory deadline for submitting the reinsurance fee contribution form is Nov. 15, 2016. To submit annual enrollment counts to HHS, contributing entities must register on www.pay.gov and complete a contribution form for the year.

As described below, certain types of coverage are excluded from paying fees to the reinsurance program.

- **Fully-insured Group Health Plans:** For insured health plans, the issuer of the health insurance policy is required to pay reinsurance fees. Issuers will likely shift the cost of the fees to sponsors through premium increases.
- **Self-insured Group Health Plans:** For self-insured plans, the plan sponsor is liable for paying reinsurance fees, although a third-party administrator (TPA) or administrative-services-only (ASO) contractor may pay the fee at the plan's direction. For a plan maintained by a single employer, the employer is the plan sponsor. The Department of Labor (DOL) has advised that paying reinsurance fees constitutes a permissible expense of the plan under ERISA because the payment is required by the plan under the ACA.
- **Exception for Self-insured, Self-administered Plans:** For 2015 and 2016, the term "contributing entity" excludes self-insured group health plans that do not use a TPA for the core administrative functions of claims processing or adjudication (including management of appeals) or plan enrollment.

For 2016, the annual contribution rate is \$27 per enrollee per year, or \$2.25 per month (For 2015, the annual contribution rate was \$44 per enrollee per year, about \$3.67 per month. For 2014, the annual contribution rate was \$63 per enrollee per year, or \$5.25 per month). Key deadlines for the 2016 benefit year are as follows:

- **No later than Jan. 17, 2017:** Remit first contribution amount of \$21.60 per covered life.
- **No later than Nov. 15, 2017:** Remit second contribution amount of \$5.40 per covered life.
- **Optional Combined Collection:** Contributing entities may elect to make a combined collection (first and second installment) and the deadline to submit the contribution is Jan. 17, 2017.

Reinsurance contributions are only required for plans that provide major medical coverage. Fees are only required for individuals with Medicare coverage when the employer-provided group health coverage is the primary payer and Medicare is the secondary payer. If the group health plan is the secondary payer, individuals with Medicare coverage will not be counted for the reinsurance fees.

Self-insured group health plans may use one of the following counting methods to calculate the number of covered lives of reinsurance contribution enrollees for a benefit year: (1) The Actual Count Method, (2) The Snapshot Count Method, (3) The Snapshot Factor Method, or (4) The Form 5500 Method. Individuals who are receiving continuation coverage (such as COBRA coverage) are included in the number of covered lives under the plan.

Final Forms for 2016 ACA Reporting Released

The Internal Revenue Service (IRS) has released the final forms and instructions for 2016 ACA reporting:

- Forms 1094-B and 1095-B will be used by entities reporting under Section 6055, including self-insured plan sponsors that are not applicable large employers (ALEs). Instructions for the forms can be found [here](#).
- Forms 1094-C and 1095-C will be used by ALEs to report under Section 6056, as well as for combined Section 6055 and 6056 reporting by ALEs who sponsor self-insured plans. Instructions for the forms can be found [here](#).

Minor changes were made to the forms, including the addition of two new "Offer of Coverage" codes for use on Form 1095-C. The instructions also included some clarifications.

As a reminder, the ACA created new reporting requirements under Code Sections 6055 and 6056. Under these rules, certain employers must provide information to the IRS about the health plan coverage they offer (or do not offer) or provide to their employees. Each reporting entity must annually file all of the following with the IRS:

- A separate statement (Form 1095-B or Form 1095-C) for each individual who is provided with minimum essential coverage (for providers reporting under Section 6055), or for each full-time employee (for ALEs reporting under Section 6056); and
- A transmittal form (Form 1094-B or Form 1094-C) for all of the returns filed for a given calendar year.

Reporting entities must also furnish related statements (Form 1095-B or 1095-C, or a substitute form) to individuals.

For calendar year 2016, forms are required to be filed with the IRS by Feb. 28, 2017 (or March 31, 2017, if filing electronically). Individual statements for the 2016 calendar year must be furnished by Jan. 31, 2017.

Deadline Extended For Form 5500 Comments

The Department of Labor (DOL) has extended the comment period on the Form 5500 Modernization Proposals from Oct. 4 to Dec. 5, 2016. The proposed form revisions and regulatory amendments are intended to improve and modernize Form 5500 annual reports and returns filed by employee benefit plans.

The Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code require pension and other employee benefit plans to file annual returns/reports concerning the financial conditions and operations of the plan. Filing the Form 5500 generally satisfies these annual reporting requirements.

Among the changes is the proposal to eliminate the complete Form 5500 exemption for small group health plans. Small group plans are currently completely exempt from the Form 5500 filing requirement if they have fewer than 100 covered participants at the beginning of the plan year; and are unfunded, fully insured or a combination of insured

and unfunded. Under the Departments' proposal, all ERISA-covered plans that provide group health benefits would be required to file a Form 5500, together with any required attachments and schedules, including a new Schedule J (Group Health Plan Information).

The revisions are expected to apply for plan years beginning on or after Jan. 1, 2019, but are subject to change before becoming legal and being implemented.

Individual Coverage

Medicare Open Enrollment Begins This Month

From Oct. 15 through Dec. 7, eligible individuals have the opportunity to make changes to their Medicare Prescription Drug Plan or Medicare Advantage Plan.

Plan changes become effective Jan. 1, 2017. The annual Medicare open enrollment does not apply to the Medicare supplement insurance policy individuals currently own. Coverage automatically renews each time the premium is paid. You never need to reapply, even during Medicare open enrollment.

ACA Open Enrollment Begins Nov. 1

Individuals without health insurance coverage will have the opportunity to gain coverage for 2017 beginning Nov. 1, 2016. The enrollment period will run until Jan. 31, 2017.

Those missing the Jan. 31 deadline will not be eligible to apply for coverage again until the 2018 open enrollment period, unless they qualify for a special enrollment period (SEP). An SEP is a time outside of the open enrollment period during which individuals and their families have a right to sign up for health coverage. Generally, individuals qualify for an SEP 60 days following certain life events that involve a change in family status (for example, marriage or birth of a child) or loss of other health coverage. Job-based plans must provide a special enrollment period of 30 days.

The ACA requires most Americans to obtain health insurance coverage or face a tax penalty.

Wellness

Flu Season Heading This Way

With flu outbreaks occurring as early as October, individuals should take precautions to avoid getting sick. While the severity and timing of the flu season varies yearly, outbreaks typically occur from this month until as late as May with the peak season between December and February.

To ensure as many people are protected as possible, the Centers for Disease Control and Prevention (CDC) recommend getting the vaccine as soon as it's available in your area. The CDC says it takes about two weeks after vaccination for the antibodies to develop in the body and provide protection against the flu.

In addition to getting vaccinated with a flu shot, the DOL has provided simple, every day steps that individuals can take to ward off germs:

- Stay at home if you are sick. The CDC recommends that workers who have a fever and respiratory symptoms stay at home until 24 hours after their fever ends (100 degrees Fahrenheit or lower), without the use of medication. Not everyone who has the flu will have a fever. Other symptoms could include a runny nose, body aches, headache, tiredness, diarrhea, or vomiting.
- Wash your hands frequently with soap and water for 20 seconds; use an alcohol-based hand rub if soap and water are not available.
- Avoid touching your nose, mouth, and eyes.
- Cover your coughs and sneezes with a tissue, or cough and sneeze into your upper sleeve(s).
- Clean your hands after coughing, sneezing, or blowing your nose. When using soap and water, rub soapy hands together for at least 20 seconds, rinse hands with water, and dry completely. If soap and water are not available, use of an alcohol-based hand rub is a helpful interim measure until hand washing is possible.
- Try not to use a coworker's phone, desk, office, computer, or other work tools and equipment. If you must use a coworker's equipment, consider cleaning it first with a disinfectant.
- Avoid shaking hands or coming in close contact with coworkers and others who may be ill.
- Stay in shape. Eat a healthy diet. Get plenty of rest, exercise, and relaxation.
- Speak with your doctor and find out if you are in a high risk category for seasonal flu (e.g., elderly, pregnant women, small children, persons with asthma, etc.).
- Participate in any training offered by your employer. Make sure that you understand how to stay healthy at work.