



Labor & Employment Alert June 2010

Early Retiree Reinsurance Program Offers Potential Savings for Health Care Plans

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As part of the landmark federal health care reform legislation passed in March, 2010, Congress included an Early Retiree Reinsurance Program that will reimburse sponsors of group health care plans for a portion of the cost of paying claims for covered early retirees. If a health plan covers retirees too young to qualify for Medicare (ages 55-64), then the plan may be able to apply for this reimbursement from the federal government. The program is available to public and private employer sponsors, as well as multi-employer plans and applies to both insured and self insured plans.

The program was effective June 1, 2010, but the final application form has not yet been made available. These applications should be available before the end of June. Congress allocated \$5 billion to the program to be given out on a first come, first serve basis. The program lasts until January 1, 2014, when early retirees will become eligible for coverage through state health care exchanges, or until the money runs out, whichever comes first. It is expected that the funds will run out well before 2014.

If the plan sponsor qualifies, the program will reimburse the plan for up to 80% of claims between \$15,000 and \$90,000 for each early retiree in the plan. Reimbursement is based on the total cost of health benefits, including medical and prescription drug cost. The funds must be used by the plan to lower costs by reducing the plan's health benefit premiums or health benefit costs or by reducing out-of-pocket costs for participants.

The application will most likely be filed online. In the application, the plan sponsor must:

1. Project the amount of reimbursement expected during the first plan year;
2. Explain how reimbursements will be used;
3. Describe programs that have generated or have the potential to generate cost savings for participants with chronic and high-cost conditions;



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4. Include an attestation that the plan or its insurer has policies in place to detect fraud, waste and abuse; and
5. Include an assurance that there is a written agreement in place between the plan and its insurer regarding disclosure of data.

The application must also include detailed information about the plan and benefit options available, as well as a signature of an authorized representative. The plan must keep records of all this information in case of audit.

Plan sponsors who cover early retirees should begin assembling the necessary information now in order to be able to file as soon as the final application becomes available. It is vital that the information in the application be complete and correct, because incomplete applications will not be accepted, and plan sponsors filing incomplete applications will have to re-file and go to the end of line for reimbursement. Once the money runs out, there will be no further reimbursement.

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If you have any questions or concerns about the material in this Advisory, please contact Katherine A. Hesse, Brian P. Fox or the attorney assigned to your account at (617) 479-5000.

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