

March 2014

BENEFITS ALERT: Transitional Reinsurance Fee

Final rules unlikely to exempt many multiemployer plans

Despite the hope that final Department of Health and Human Services (HHS) rules would exempt multiemployer plans from paying the fee, which goes into effect in 2014, 2015 and 2016, many such plans will not be exempt because they use third party administrators.

Transitional Reinsurance Fee

The fee is imposed on large group health plans that provide major medical benefits in order to support the “transitional reinsurance program”. The program is one of three that the Affordable Care Act implemented to stabilize prices and protect insurers from the impact of mandated reforms, such as the elimination of pre-existing conditions. The fee, which is first effective for 2014 and is in effect for three years, is \$63, \$44 and (estimated to be between) \$26-\$28, per covered life for 2014, 2015 and 2016, respectively.

Paying the Fee

Self-insured plans are responsible for paying the fee, while insurers are responsible for paying the fee for insured plans. Payment is due early in the year following the year to which it applies. *E.g.*, the 2014 fee is due in 2015 (and is paid in two installments). Self-insured plans may pay the fee from plan assets.

HHS Waives 2015 and 2016 Fees

HHS has exempted “self-insured, self-administered plans” from paying the fee for 2015 and 2016. (The fee for 2014 is not waived.) A self-administered plan is one that does not use a third party administrator in connection with core administrative functions (with respect to medical benefits), such as claims processing (including appeals) or enrollment. Because the fee only applies to medical benefits, a plan may use a third party administrator for prescription drug or dental/vision benefits and still be considered self-administered under the rules. In addition, self-insured plans may participate in an insurance network and still be considered self-administered.

Minimal Expected Impact on Multiemployer Plans

A self-insured plan is considered to be self-administered if it outsources no more than 5% of medical claims and enrollment functions to a third party administrator. Of course, many self-insured plans use a third party administrator for claims processing and/or to adjudicate appeals. Unless a multiemployer plan handles claims processing in-house and enrollment functions in-house, the exemption will not apply and the plan will continue to be required to pay the transitional reinsurance fee.

We would be happy to review your plan to see if it qualifies as a “self-insured, self-administered” plan. If you have any questions about this fee, please do not hesitate to contact us.

The materials provided in this communication are for informational purposes only. This communication is not intended to provide advice, create an attorney-client relationship or render a legal opinion. This communication does not necessarily reflect the opinion of Cleary, Josem & Trigiani LLP or any of its individual attorneys. Clients, of course please call any of the Cleary, Josem & Trigiani LLP attorneys if you have questions about the items reported on here.