

HEALTH CARE REFORM UPDATE

E-Legislative Update

Employee Benefits
June 11, 2010



Early Retiree Reinsurance Program (ERRP)

ERRP - What is it?

The Early Retiree Reinsurance Program (ERRP), a provision of the Patient Protection and Affordable Care Act (PPACA), provides reimbursement to plan sponsors for a portion of the cost of providing health benefits to retirees between the ages of 55-64, and their covered dependents regardless of age. An "early retiree" is defined as a plan participant, age 55-64, who is not eligible for Medicare and is not an active employee of the plan sponsor.

This temporary program makes available \$5 billion to help employers continue to provide coverage to early retirees. ERRP reimbursement is available on a first-come, first-serve basis for qualified employers that apply and become certified for the program. It ends on January 1, 2014 or when the funds are depleted – whichever occurs first. Beginning January 1, 2014, retirees are expected to have additional coverage options through health insurance exchanges and federal subsidies.

Regulations for ERRP were issued on May 5, 2010 and became effective on June 1, 2010.

Applying for ERRP

Self-insured and fully-insured employer groups (including private entities, state and local governments, nonprofits, religious entities, unions and other employers) that offer early retiree coverage can apply. Sponsors with more than one plan will need to file an application for each plan.

To participate in the program (according to the draft application form and instructions), employers must:

- Submit a timely application to the Secretary of Health and Human Services (HHS). Applications will be processed in the order received. Incomplete applications will be returned to the employer and will require resubmission
- Estimate of how much they expect to receive in reimbursement during a two-year period
- Describe programs and procedures that have generated or have the potential to generate cost savings for plan participants with claims for chronic and high-cost conditions – defined as conditions for which \$15,000 or more in health care claims are likely to be incurred by one plan participant
- Ensure that policies and procedures are in place to protect against fraud, waste and abuse under the plan
- Demonstrate that reimbursements will be used to reduce costs for the plan

NOTE: As of this writing, a final application form has not been released. However, a draft application form and instructions can be found [here](#).

ERRP Reimbursement

The program will reimburse employers up to 80% of the cost of individual health care claims between \$15,000-\$90,000 during a plan year. Claims incurred during the plan year in which June 1, 2010 falls will be credited towards the \$15,000 threshold; however, only claims incurred on or after

June 1 are eligible for reimbursement under the program. For example, if an individual incurs claims costs of \$30,000 between the start of the plan year and June 1, and \$40,000 after that date, the amount which may be reimbursed is 80% of \$40,000 (or \$32,000) – the costs above the \$15,000 threshold that occur after June 1.

NOTE: For fully-insured plans, premiums are not eligible for reimbursement – actual claims data must be submitted. Some carriers may provide this information for an additional fee.

Reimbursement received under this program must only be used to:

- reduce the sponsor's premiums or costs
- reduce contributions, copays, deductibles or other out-of-pocket costs or combination of these costs for plan participants
- reduce any combination of the above costs

Funds may not be used as revenue for the employer.

Timing is Key

Because of the limited funds available and the number and size of employers that are likely to apply for ERRP certification, we recommend that you prepare now: gather relevant information, review plan documents and business associate agreements, determine what alternate approaches may be needed to adequately address ERRP requirements, etc., so that you will be ready to submit complete and accurate applications as soon as practicable. Mesirow Financial will forward the official application form when it is released.

For more information, visit the [HHS Web site](#).

See also [HHS ERRP FAQs](#) and [White House ERRP FAQs](#).

This communication is intended as an overview and should not be viewed or relied upon as legal or tax advice. Please consult your attorney or tax professional if you have any questions about this legislation.

About Mesirow Financial

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