

Publications

Labor and Employment Alert: Two November Deadlines for Self-Insured Health Plans

Related Attorneys

Robin L. Canowitz

Anthony C. Ciriaco

Jennifer Bibart Dunsizer

Jolie N. Havens

Related Services

Employee Benefits and Executive Compensation

Labor and Employment

CLIENT ALERT | 9.17.2014

Summary

If your company sponsors a self-insured health plan, there are two November deadlines you may have overlooked in the midst of preparation for the ACA's pay or play penalties and 2015 open enrollment.

1. November 5, 2014: If your company sponsors a self-insured health plan, you are supposed to apply for a Health Plan I.D. (HPID) on <https://portal.cms.gov/wps/portal/unauthportal/home/> by November 5, 2014. Small plans (with less than \$5 million in annual claims) have an extra year (until November 5, 2015) to apply.
2. November 15, 2014: If your company sponsors a self-insured major medical plan, you must register on www.Pay.gov and submit a form and enrollment count by November 15, 2014, for the reinsurance fee. During the registration, you must schedule a payment date (on or before January 15, 2015) to pay all or part of the reinsurance fee.

Apply for a health plan I.D. (HPID) by November 5, 2014

HIPAA requires medical providers, health insurers, group health plans and third-party administrators (TPAs) conducting HIPAA "standard transactions" to use standard identifiers and standard code sets for electronic data exchanges. The HPID is a 10 digit identifier that will be assigned to health plans by the Centers of Medicare and Medicaid Services (CMS). We had hoped that CMS would waive the requirement that self-insured health plans obtain HPIDs or at least offer a simplified process for self-insured health plans to obtain HPIDs. However, that has not happened (yet) and we are nearing the deadline.

A controlling health plan (CHP) is a health plan that "[c]ontrols its own business activities, actions, or policies; or [i]s controlled by an entity that is not a health plan." A subhealth plan (SHP) is a health plan "whose business activities, actions, or policies are directed by a [CHP]." As a

result of these definitions, an employer that sponsors one or more self-insured health plans will have at least one CHP. The deadline for a CHP to obtain a HPID is November 5, 2014. A small CHP – a health plan with annual “receipts” (for a self-insured plan, this is generally understood to mean “claims”) of \$5 million or less – has until November 5, 2015. A SHP may, but is not required to, get a SHP HPID.

You apply for a HPID through <https://portal.cms.gov/wps/portal/unauthportal/home/>. You can find links to a YouTube video, a slide deck and a manual on the process at <http://www.cms.gov/Regulations-and-Guidance/HIPAA-Administrative-Simplification/Affordable-Care-Act/Health-Plan-Identifier.html>. You may want to view the video to obtain an overview, and use the slide deck to help you walk through the application process.

There are multiple steps in the HPID application process and you will need two company representatives, a Submitter (to create the application) and an Authorizing Official (to approve the application). Note that ***the HPID application process cannot be completed in a single session***. At several points, you will have to log out and wait for an email with an approval code before continuing. Therefore, unless CMS issues different guidance for self-insured plans in the next few weeks, plan sponsors will want to start the application process before the end of October to complete it by the deadline.

Register for payment of the reinsurance fee by November 15, 2014

Reinsurance fees apply to both self-insured and insured health plans in 2014, 2015 and 2016. However, if your health plan is insured, the insurer is responsible for filing and paying the fee. If your health plan is self-insured, your TPA may agree to register on your behalf and transfer your payments to HHS. However, if your TPA doesn't offer this service, the plan sponsor (in the case of a single employer plan, the sponsoring company) will need to do it.

The reinsurance fee is limited to health plans that provide major medical coverage. “Major medical coverage” is health coverage that provides a broad range of services and treatments, including diagnostic and preventive services, as well as medical and surgical conditions provided in various settings, including inpatient, outpatient, and emergency room settings. Therefore, you do not have to pay a reinsurance fee on dental plans, vision plans, health flexible spending accounts (health FSAs) and health reimbursement arrangements (HRAs). The reinsurance fee applies to retiree health plans that provide major medical coverage, but retirees and dependents for whom Medicare is the primary payer are not included in the count of covered individuals. The reinsurance fee is separate from and in addition to the Patient Centered Outcomes Research (PCOR) fee.

You will need to count the number of individuals covered in 2014 using one of four methods:

1. **Actual count method:** Count the actual number of covered individuals on each day of the first nine months of the calendar year and divide by the number of days.
2. **Snapshot count method:** Count the actual number of covered individuals on at least one day in each of the first three quarters of the calendar year and divide by the number of sample days.
3. **Snapshot factor method:** On at least one day in each of the first three quarters of the calendar year, count:

- the actual number of employees enrolled in single coverage; and
 - the actual number of employees enrolled in coverage that includes at least one family member (e.g., employee plus spouse, employee plus one or more children, and family coverage) and multiply that number by 2.35. Divide the total by the number of sample days.
4. **Form 5500 method:** If the plan offers family coverage, add the number of participants reported at the beginning and the end of the most recent Form 5500. Since the participant counts on Form 5500 do not include family members, this doubling of the number of reported participants is intended to reflect the fact that some reported participants have coverage for family members.

You must register on www.Pay.gov and complete an ACA Transitional Reinsurance Program Annual Enrollment and Contributions Submission Form no later than November 15, 2014. The Form was not available as of September 15, 2014, but is expected to be available in the near future. In connection with completing the Form, you will upload information identifying the plan sponsor and the number of covered individuals. An August 13, 2014 [CMS memo](#) explains the file layout. You will also provide bank account information and schedule a payment date on or before January 15, 2015. The actual payment is a pull payment, meaning the government will reach into the designated bank account on the scheduled date. You may need to contact your bank to make sure the payment transaction is not blocked.

The initial payment (on or before January 15, 2015) is \$52.50 per covered individual. A second payment of \$10.50 per covered individual is required to be made by November 15, 2015. Alternatively, you may pay the entire \$63.00 per covered individual (\$52.50 + \$10.50) by January 15, 2014.

CMS has conducted a series of training webinars on the reinsurance payment process. You can register on www.regtap.info to get access to the slides from the CMS webinars.

This alert is a summary and cannot include all details that may be relevant to your situation. As always, please contact us if you want more information on these developments or other employee benefits matters.