# BRIEFING

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# HEALTH CARE REFORM: TRANSITIONAL REINSURANCE PROGRAM FEE

*Revised information is in* **bold**.

The Affordable Care Act (ACA) establishes a Transitional Reinsurance Program (TRP) that is designed to help stabilize premiums in the individual market from 2014 through 2016. Under TRP, all health insurance issuers and plan sponsors of self-funded group health plans that are considered Contributing Entities must submit contributions to the Department of Health and Human Services (HHS). These contributions will be used to make reinsurance payments to health insurance issuers covering high-cost individuals in non-grandfathered individual market plans. This *Briefing* outlines who is required to pay the fee, the amounts due and the deadline for payment.

## WHO ARE CONTRIBUTING ENTITIES?

In general, Contributing Entities include health insurance issuers and sponsors of self-funded group health plans that provide major medical coverage. Major medical coverage is defined broadly to include plans that cover a wide range of services and treatments, as well as providing minimum value. However, certain types of coverage are not considered major medical coverage and are not subject to the TRP fee. These include:

- Flexible Spending Accounts (FSA)
- Health Reimbursement Arrangements (HRA) that are integrated with a group health plan
- Health Savings Accounts (HSA)
- "Excepted Benefits" (e.g., limited-scope dental and vision plans that are either: (1) provided for under a separate policy, certificate or contract of insurance, or (2) are otherwise not an integral part of a group health plan (i.e., if the participant has the right to opt out of coverage or if claims are administered under a separate contract from other benefits under the group health plan)).
- Employee Assistance Programs or Wellness Programs (if they do not provide major medical coverage)
- Retiree-only plans that pay secondary to Medicare
- Plans providing only prescription drug coverage

The issuer is responsible for submitting the TRP fee for fully insured plans providing major medical coverage. Sponsors of self-funded plans providing major medical coverage are responsible for submitting the TRP fee but may arrange for a third party administrator (TPA) to do so on their behalf.

Note: For 2015 and 2016, self-administered, self-funded plans are exempt from the TRP fee. Self-administered plans are those that do not use a TPA for claims processing, adjudication (including internal appeals) or plan enrollment services.

## How Much is the Fee and How are Covered Lives Calculated?

For 2014, the TRP fee is $63 per covered life per year ($5.25 per month). The fee decreases in 2015 to $44 per covered life per year ($3.67 per month). The fee amount for 2016 has not been set.

Four methods are available for sponsors of self-funded plans providing major medical coverage to calculate the number of covered lives:

- *Actual Count Method* – Add the total number of lives covered for each day of the first nine months of the benefit year and divide that total by the number of days in those nine months.

- *Snapshot Count Method* – Add the total number of lives covered on any date (or dates, if an equal number is used) during the same corresponding month in each of the first three quarters (e.g., January 15th, April 15th and July 15th) of the benefit year and divide by the number of dates on which a count was made. The dates used for the second and third quarters must be within the same week of the quarter as the date used for the first quarter.

- *Snapshot Factor Method* – Add the total number of lives covered on any date (or dates, if an equal number is used) during the same corresponding month in each of the first three quarters (e.g., January 15th, April 15th and July 15th) of the benefit year and divide by the number of dates on which a count was made. Under this method, the number of covered lives on a date is calculated by adding: (1) the number of participants with self-only coverage on the relevant date to (2) the number of participants with coverage other than self-only coverage on that date multiplied by 2.35.

- *Form 5500* – This method uses the number of lives covered for the most current plan year calculated based on the most recent Form 5500. For a plan offering only self-only coverage, the number of covered lives equals the sum of the total participants covered at the beginning and end of the plan year, as reported on Form 5500, divided by 2. For a plan with self-only coverage and other than self-only coverage, the number of covered lives equals the sum of the number of participants at the beginning and end of the plan year as reported on Form 5500. This method may not be used if the plan sponsor maintains multiple self-funded plans that are being reported as a single plan for purposes of Form 5500.

## Multiple Plans – Calculating the Number of Lives Covered

Contributing Entities must pay the TRP fee for each life covered under their major medical plan(s). Plan sponsors offering multiple plans, such as a self-funded and fully insured medical plan plus a carve-out prescription drug plan or a limited-scope dental plan, need to evaluate their plans to determine which are major medical coverage subject to the TRP fee and then determine the methods that may be used to calculate the number of covered lives under those plans.

For example, if a plan sponsor offers a self-funded and a fully insured medical plan, a carve-out prescription drug plan, limited-scope dental and vision plans plus an FSA, the TRP fee would be due only on the self-funded and fully insured medical plans. As noted above, carve-out prescription drug plans, limited-scope dental or vision plans, FSAs, HSAs and HRAs are not subject to the TRP fee because they are not major medical coverage.

The plan sponsor may calculate and report the number of covered lives under the self-funded and fully insured medical plans separately or in the aggregate. If reporting on a separate basis, any of the four counting methods above may be used to calculate the number of covered lives under the self-funded option. The issuer will count and report on the lives covered under the fully insured option. If reporting on an aggregate basis, the plan sponsor and the issuer must use either the Actual Count or Snapshot Count method. Aggregate reporting will require the plan sponsor to coordinate with the issuer.

Similarly, if a plan sponsor offers multiple plans that collectively provide major medical coverage, such as self-funded and fully insured medical plans along with dental and vision plans that do not qualify as "excepted benefits," the reporting may also be done on a separate or aggregate basis. As above, if reporting on a separate basis, any of the four counting methods may be used to calculate the number of covered lives under the self-funded option(s). The issuer will count and report on the lives covered under the fully insured option(s). If reporting on an aggregate basis, the plan sponsor and the issuer must use either the Actual Count or Snapshot Count method. Again, aggregate reporting will require coordination between the plan sponsor and the issuer.

Lastly, if a plan sponsor offers multiple plans that collectively provide major medical coverage and consist only of self-funded plans, reporting may be done on a separate or aggregate basis. If reporting on a separate basis, any of the four counting methods detailed previously may be used to calculate the number of covered lives under each self-funded option. If reporting on an aggregate basis, the plan sponsor must use the Actual Count, Snapshot Count or Snapshot Factor Count method.

## When is the Fee Due and How is it Paid?

Contributing Entities must submit their membership counts of the number of covered lives and pay the TRP fee electronically through Pay.gov. **Membership counts were originally due by November 15, 2014 but HHS extended the deadline to December 5, 2014.** Based on the membership counts, HHS will notify the Contributing Entity of the amount due and the fee may be paid in two installments. The first installment of $52.50 per covered life per year is due no later than January 15, 2015. The second installment of $10.50 per covered life per year is due no later than November 15, 2015. Alternatively, the entire amount due may be paid in one installment no later than January 15, 2015.

Note**:** All Contributing Entities must submit their membership counts and pay the fees by the dates above regardless of whether the plan is a calendar year or non-calendar year plan.

## Maintenance of Records by a Contributing Entity

Contributing Entities must maintain any documents and records for a period of 10 years that are sufficient to substantiate the enrollment count. These records, whether paper, electronic or in other media, must be available upon request as HHS may conduct audits to assess compliance with the requirements of the TRP.

Please contact your Keenan representative for questions regarding this *Briefing* or if you require any additional information regarding the Affordable Care Act.