

HHS Final Rule Regarding Notice of Benefit and Payment Parameters for 2014

March 14, 2013

The U.S. Department of Health and Human Services (HHS) recently issued the Notice of Benefit and Payment Parameters, a final rule which (1) expands on standards defined in prior rules regarding the permanent risk adjustment, transitional reinsurance, and temporary risk corridors programs under the Patient Protection and Affordable Care Act (PPACA) (collectively, the Risk Programs) and (2) sets out payment parameters for the Risk Programs. The Risk Programs become effective in 2014 and are intended to reduce the incentives for health insurance issuers to avoid enrolling higher-risk individuals, such as those with pre-existing medical conditions, by transferring funds from insurers with lower-risk enrollees to insurers who cover higher-risk populations. Notably for group health plan sponsors, this final rule (i) confirms which types of health insurance coverage and self-funded health plans are excluded from making contributions under the transitional reinsurance program (the TRP) (which is effective only for 2014, 2015, and 2016); (ii) implements the contribution rate and methods for calculating contributions to be paid by insurers and self-funded health plans under the TRP; (iii) clarifies that a self-funded group health plan is ultimately responsible for payment of its contributions under the TRP, although it may elect to use a third-party administrator to handle the actual transfer of contributions to HHS; and (iv) affirms (in the preamble) that reinsurance contributions constitute a permissible plan expense under Title I of the Employee Retirement Income Security Act (ERISA). This final rule also sets standards and provides additional information regarding PPACA's medical loss ratios (MLRs), Small Business Health Options Program (SHOP), advance payments of the premium tax credit, and cost-sharing reductions. With respect to MLRs beginning in 2014, the final rule changes the deadline for MLR reporting from June 1 to July 31 and the associated rebate disbursement deadline from August 1 to September 30. The final rule becomes effective May 10, 2013 (although certain of the programs addressed therein are not effective until 2014). A link to the final rule is available [here](#). Related publications and guidance in the form of the following were issued contemporaneously with the final rule:

- Fact Sheet for HHS Notice of Benefit and Payment Parameters can be found [here](#).
- Interim Final Rule by HHS (referenced in the final rule above), amending requirements of the risk corridors risk program to align it with the single risk pool requirement of PPACA can be found [here](#).
- Proposed Rule by HHS, with proposed amendments to standards set out in the final rule above regarding SHOP can be found [here](#).