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### HEALTHCARE REFORM UPDATE 2013-33



## What Employers Need to Know Right Now About Health Care Reform

### Thanksgiving Smorgasbord Of Regulations

The Internal Revenue Service (IRS) and the Department of Health and Human Services (HHS) have recently issued several final and proposed rules of interest to employers.

#### **Transitional Reinsurance Fee -- affects large and small employers, whether fully insured or self-funded**

A transitional reinsurance fee (TRF) will be assessed on both insured and self-funded plans for the 2014, 2015, and 2016 calendar years to help cover some of the costs expected from covering formerly uninsured individuals in the marketplace. For 2014, this fee will be \$63 per covered person. On Dec. 2, 2013, HHS published a [proposed notice](#) that recommends that employers have the option to pay this fee in two installments, with the reinsurance portion of the fee (\$52.50) due in January 2015 and the treasury portion of the fee (\$10.50) due late in the fourth quarter of 2015. The notice clarifies that unlike the Patient Centered Outcomes Research Institute (PCORI) fee, the TRF will only be assessed once per person, for which the entity that provides primary major medical coverage will be responsible. (If the plan provides secondary coverage for coordination of benefits purposes, the plan will not owe the TRF.) Major medical coverage would be defined as providing coverage for a broad range of medical services and meeting minimum value. If no one plan meets that standard, the plan that provides the most coverage for inpatient hospital services would be responsible for the fee.

The notice also says that it anticipates that for 2015 the TRF will be \$44 per covered person, with \$33 due in January 2016 and \$11 due in late 2016 for the 2015 TRF. HHS is proposing that for 2015 and 2016, **self-administered**, self-funded plans would be exempt from the TRF. (Self-funded plans that use a third party administrator for claims or enrollment would still need to pay the fee. Even if this proposal is adopted, self-

Our access to PPACA Advisor resources can help you clear up PPACA questions and better craft your company's benefit strategy for the future.



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administered, self-funded plans will need to pay the fee for 2014.)

**Maximum Out-of-Pocket for 2015 -- affects large and small employers, whether fully insured or self-funded**

HHS has announced that it expects that the maximum out-of-pocket limit for non-grandfathered plans in 2015 to be \$6,750 for employee-only coverage and \$13,500 for family coverage (up from \$6,350 and \$12,700 respectively for 2014). While it is possible that there will be modifications when the final notice is released, the figures likely are close enough to the final figures to be helpful for planning purposes.

**Open Enrollment for the Marketplaces -- may affect large and small employers, whether fully insured or self-funded**

Open enrollment for the individual marketplaces for 2015 coverage would run from Nov. 15, 2014, through Jan. 15, 2015. Coverage would begin on Jan. 1, 2015, for individuals enrolling from Nov. 15 through Dec. 15, 2014, and on Feb. 1, 2015, for those enrolling from Dec. 16, 2014, through Jan. 15, 2015.

For 2014, a person may enroll in a federally run marketplace as late as Dec. 23, 2013, and be eligible for coverage as of Jan. 1, 2014. State-run Small Business Health Options Programs (SHOPs) may use either Dec. 15, 2013, or Dec. 23, 2013, as the cut-off for a Jan. 1, 2014, effective date.

**Maximum Deductible for 2015 -- affects small employers with fully insured plans**

HHS has announced that it expects that in 2015 the maximum deductible for insured small group plans will be \$2,150 for employee-only coverage and \$4,300 for family coverage (up from \$2,000 and \$4,000 respectively for 2014).\* While there may be modifications when the final notice is released, the figures likely are close enough to the final figures to be helpful for planning purposes.

**Other Changes Affecting Small Insured Plans**

Beginning in 2015, if an insurer agrees to use a composite rate, the rate could not be changed during the year, even if the composition of the group changes. Insurers are encouraged to follow this practice during 2014. This applies both inside and outside the SHOP marketplace.

The HHS actuarial value (AV) [calculator](#), which is available on the [HHS website](#), is being updated to reflect the increase in the cost of living.

**SHOP Marketplace -- may affect small employers**

On Nov. 27, 2013, HHS announced that online enrollment will not be available in the federal SHOP for 2014. Small employers will be able to obtain coverage through the SHOP beginning Jan. 1, 2014, but they will need to use a paper [enrollment form](#) and enroll through an agent, a broker, or an insurance carrier that offers a certified SHOP plan. Small employers in states with a federal SHOP must apply by Dec. 23, 2013, to be eligible for coverage on Jan. 1. (A small employer in states with a state SHOP may need to enroll by Dec. 15, 2013, to be eligible for coverage on Jan. 1, 2014.) SHOP enrollment is available throughout the year, although carriers may impose participation requirements outside of the annual open enrollment period (Nov. 15 through Dec. 15). Information on available health plans and premiums in a state is available on the [healthcare.gov](#) website.

Beginning in 2014, a small employer is eligible for the small business health tax credit only if it provides coverage through a SHOP. This requirement remains in effect despite the inability to enroll in the federal

SHOP online, because paper enrollment is available. Small employers that wish to apply for the tax credit must be certified as eligible by HHS (and also meet the IRS' requirements). HHS has pledged to complete eligibility determinations within three to five days of receiving a completed paper application. Review of applications that were submitted online will be completed in the first part of December. Additional information is available in an HHS [FAQ](#).

For 2015, federally facilitated SHOPS may allow employers to contribute different amounts for full-time and part-time employees, and for employee-only and family coverage. Electing this contribution approach might cause problems for employers interested in the small business health credit, however.

#### **Other Marketplace Information -- may affect small employers**

**Pediatric Dental.** Beginning in 2015, a national maximum out-of-pocket for stand-alone dental plans provided in a marketplace would be \$300 for one child and \$400 for more than one child.

**Marketplace (Exchange) User Fees.** PPACA requires the health insurance marketplaces to be financially self-sustaining by 2015 and authorizes user fees as a way to provide this funding of administrative expenses. In many cases this will be through a fee on insurers, who likely will add the fee to the premium.

The user fee for the federally run marketplaces will remain at 3.5 percent of premium for 2015.

\* The regulations include the possibility that a higher deductible might be allowed with bronze or even silver level plans. Some states and carriers are relying on this possibility and are offering plans in the small group market with higher deductibles, while others are staying with the stated maximum.

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