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HHS Releases Interim Final Rule On Early Retiree Reinsurance Program

May 4, 2010

On May 3, 2010, the Secretary of the Department of Health and Human Services (HHS) released an interim final rule with a 30-day public comment period that implements the Early Retiree Reinsurance Program established by the Affordable Care Act (the "Act").[1] The interim final rule will become effective on June 1, 2010.

The Act required that HHS establish this temporary program no later than June 21, 2010 to provide reimbursement to participating employment-based plans (which includes multiemployer plans and both insured and self-funded plans) for a portion of the cost of providing health benefits for retirees ages 55 to 64 and their spouses, surviving spouses, and dependents. For each such early retiree (and his or her spouse, surviving spouse, and dependents), the employer-based plan will receive up to 80 percent of costs, minus negotiated price concessions, for certain health benefit claims between $15,000 and $90,000 (these amounts will be indexed for plan years beginning on or after October 1, 2011). The program will end on January 1, 2014, when early retirees will be able to elect coverage that will be available under one of the health insurance exchanges, or when HHS has exhausted the $5 billion allocated to the program, if earlier.

The interim final rule establishes specific eligibility rules and guidelines for applying for and using the available claim reimbursements. We will be providing more in-depth analysis of these rules and guidelines in a future client alert. In the meantime, please feel free to contact your regular Proskauer attorney or any member of our Health Care Reform Task Force should you have questions regarding the Early Retiree Reinsurance Program or any other aspect of health care reform.

[1] "Affordable Care Act" means The Patient Protection and Affordable Care Act (PPACA) and the Health Care and Education Reconciliation Act of 2010 (HCERA).

Related Professionals

- **Ira M. Golub**
- **Robert M. Projansky**
  Partner
- **Steven D. Weinstein**
  Partner
- **Edward S. Kornreich**