COMPLIANCE UPDATE

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CMS RELEASES NEW FAQ ABOUT COUNTING METHODS FOR TRANSITIONAL REINSURANCE FEE

This update *ONLY* applies to self-funded groups:

- ◊ **That intend to use the Snapshot Count or Snapshot Factor Method to calculate the number of covered lives for the Transitional Reinsurance Fee; and**
- ◊ **With covered lives enrolled for only a portion of any calendar quarter during the first nine (9) months of 2014.**

On October 29, 2014, The Centers for Medicare and Medicaid Services ("CMS") released an FAQ pertaining to the reporting associated with the Transitional Reinsurance Fee ("TRF"). Specifically, this FAQ describes how to determine the TRF counts for plans that use the above-mentioned counting methods and have covered lives enrolled only for a portion of any calendar quarter during the first nine (9) months of 2014.

This new guidance is inconsistent with existing regulations that we, the insurance carriers and employers have been relying on, which now ***may*** result in a required adjustment in counts.

The basic premise of the new FAQ is that groups must account for some participation in every quarter in which they were self-funded. For example, a group must account for the fact that they had participants in the 3rd quarter if they became self-funded in September 2014. Under the current guidance for counting under the snapshot count or snapshot factor method, a group could effectively choose to use dates in January, April, and July to calculate for the year. This method, while correct under the existing guidance, would result in a zero participant count with no fee being owed by the group for 2014. The new FAQ (FAQ #6438), in essence, explains that a group must choose a set of counting dates for the nine-month counting period such that the plan or coverage has enrollees on each of the dates, if possible. It further explains how a "reduction factor" can be used in conjunction with the Snapshot Count and Snapshot Factor methods to automatically account for partial year enrollments.

The text of FAQ #6438 accompanies this communication. It can also be found at www.REGTAP.info (registration required) by searching "FAQ 6436." Gunn-Mowery is awaiting further guidance and clarity on this topic, however, it is not expected before the compliance deadline of November 15. Based on this new information, it may be necessary for the affected groups to re-file as result of the adjustment to the covered lives count.
Please note, there will be no penalty associated with a re-filing for an adjustment.

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CMS FAQ #6438

Question:
How should a Contributing Entity determine the number of covered lives of reinsurance contribution enrollees under a health insurance plan or coverage using the Snapshot Count Method, set forth in 45 CFR 153.405(d)(2), or the Snapshot Factor Method, set forth in 45 CFR 153.405(e)(2), if, for one (1) of the three (3) quarters during the benefit year, the plan or coverage did not have covered lives enrolled in the plan or coverage for the entire quarter?

Answer:
Pursuant to 45 CFR 153.400(a) (1), reinsurance contributions are generally required for major medical coverage, but contributions are not required to be paid more than once with respect to the same covered life. The reinsurance contribution required from a Contributing Entity is calculated by multiplying the number of covered lives determined under a permitted counting method set forth in 45 CFR 153.405(d) through 45 CFR 153.405(g) during the applicable calendar year for all applicable plans and coverage of the Contributing Entity by the applicable contribution rate for the respective benefit year.

We understand that a health insurance plan or coverage may be established or terminated, or change funding mechanisms (i.e. from fully insured to self-insured or self-insured to fully insured) in the middle of a quarter. In these circumstances, the new plan or coverage would not have covered lives enrolled in the plan or coverage for the entire quarter. We note that if this occurs, a Contributing Entity could, due to its selection of dates, be required to pay an amount significantly greater or lesser than the amount that would be due based on its average count of covered lives under the plan or coverage over the course of the ordinarily applicable nine-month counting period. To avoid this result and to effectuate the principle that contributions are required to be paid once with respect to the same covered life, we clarify that if the plan or coverage in question had enrollees on any day during a quarter and if the Contributing Entity elects to and is permitted to use either the Snapshot Count Method or Snapshot Factor Method set forth in 45 CFR 153.405(d)(2) and (e)(2), respectively, it must choose a set of counting dates for the nine-month counting period such that the plan or coverage has enrollees on each of the dates, if possible.

However, the enrollment count for a date during a quarter in which the plan or coverage was not in existence during the entire quarter can be reduced by a factor reflecting the amount of time during the quarter for which the plan or coverage did not have enrollment. This approach is intended to accurately capture the amount of time during the quarter for which major medical coverage was provided to reinsurance contribution enrollees, while not requiring contributions to be paid more than once with respect to the same covered life.

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For example, a Contributing Entity that has a plan that terminates on August 31st (that is, 62 days into the third quarter) would not be permitted to use September 1st as the date for the third quarter under the Snapshot Count or Snapshot Factor Methods because this would not properly reflect the number of covered lives of reinsurance contribution enrollees under the plan in the third quarter of the benefit year. However, it would be entitled to reduce its count of covered lives for the third quarter by 30/92, the proportion of the quarter during which the plan had no enrollment. This reduction factor is only applicable for the Snapshot Count and Snapshot Factor Methods set forth in 45 CFR 153.405(d)(2) and (e)(2), respectively, as all of the other permitted counting methods automatically account for partial year enrollment. Using the example from this paragraph, Table 1 (attached) illustrates how the reduction factor would work when using the Snapshot Count Method set forth in 45 CFR 153.405(d)(2). ('A' is the Annual Enrollment Count.) As another example, a Contributing Entity that has a plan that was established on September 1st (that is, 62 days into the third quarter) would not be permitted to use a date in July 1st or August 1st as the date for the third quarter under the Snapshot Count or Snapshot Factor Methods because this would not properly reflect the number of covered lives of reinsurance contribution enrollees under the plan in the third quarter of the benefit year. However, it would be entitled to reduce its count of covered lives for that quarter by 62/92, the proportion of the quarter during which the plan had no enrollment. This reduction factor is only applicable for the Snapshot Count and Snapshot Factor Methods set forth in 45 CFR 153.405(d)(2) and (e)(2), respectively, as all of the other permitted counting methods automatically account for partial year enrollment. Using the example from this paragraph, Table 2 (attached) illustrates how the reduction factor would work when using the Snapshot Count Method set forth in 45 CFR 153.405(d)(2).

Files:

https://www.regtap.info/uploads/faq/RIC_FAQ_Attachment1_5CR_1029146438.pdf

https://www.regtap.info/uploads/faq/RIC_FAQ_Attachment2_5CR_1029146438.pdf

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