

Alert 10-107



HHS Issues Regulations Implementing the Early Retiree Reinsurance Program

On May 4, 2010, the U.S. Department of Health and Human Services ("HHS") issued regulations implementing the Early Retiree Reinsurance Program (the "Program") as established by recent health care reform legislation. The purpose of the Program is to incentivize employers to continue providing health coverage for early retirees age 55 and older who are not yet eligible for Medicare ("Early Retirees").

Starting June 1, 2010, the Program will provide reimbursements to employers for a portion of the cost of providing health coverage to Early Retirees and their eligible spouses, surviving spouses, and dependents. Under the Program, employers will be entitled to an annual reimbursement of up to 80% of the cost of medical, surgical, hospital, prescription drug and mental health services between \$15,000 and \$90,000 per individual, which amounts will be adjusted each year. While only expenses incurred after June 2010 are eligible for reimbursement, eligible claims incurred from the beginning of a plan year will be counted for purposes of determining if the \$15,000 minimum threshold for reimbursement has been met.

The regulations clarify that self insured as well as fully insured plans will be eligible for reimbursement of claims from the Program. In order to obtain reimbursements for claims under the Program, employers must comply with a number of requirements, including properly documenting claims, implementing cost saving strategies for participants with chronic or high cost conditions, maintaining policies and procedures, and using the reimbursements for specified purposes. It is expected that HHS will initially release applications for use by employers this June.

The Program is temporary and will provide reimbursements on a first come first serve basis through the earlier of January 1, 2014 or until \$5 billion in reimbursements are paid. Accordingly, employers that are interested in participating in the Program are encouraged to apply early.

If you plan on applying for reimbursements under the Program or have any questions, please contact one of the members of Reed Smith's employee benefits team listed below, or your Reed Smith attorney.

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