

Update for Early Retiree Reinsurance Program Applicants

The U.S. Department of Health and Human Services (“HHS”) has issued clarification of §149.40 of the Interim Final Rule, which has been interpreted to mean “first-come, first-served” processing of applications to the Program. Specifically, HHS officials say the Program’s operation has been misunderstood, clarifying that funds will **not** be distributed based on when employers submit their applications, as §149.40 of the Rule has been interpreted. Instead, funds will be paid out gradually as employers submit claims for their retirees and in the order in which those claims are received. Notwithstanding HHS’ clarification, employers are strongly encouraged to submit Program applications as soon as possible.

Further, HHS has issued an updated final version of the [Application](#) and [Instructions](#), as well as additional guidance surrounding the submission of applications for the Early Retiree Reinsurance Program including:

- an updated version of [Frequently Asked Questions](#);
- [Application Do's an Don'ts](#)

For additional information or if you have any questions pertaining to the Program, please feel free to contact any member of our Health Care Reform Task Force or our [Health Care Practice Group](#).

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The opinions expressed in this bulletin are intended for general guidance only. They are not intended as recommendations for specific situations. As always, readers should consult a qualified attorney for specific legal guidance. Should you need assistance from a Miller & Martin attorney, please call 1-800-275-7303.

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