

June 3, 2010

Early Retiree Reimbursement Application Available

The Office of Management and Budget (OMB) has posted a draft of the Early Retiree Reinsurance Program (ERRP) [Application](#) as submitted for review by the Department of Health and Human Services (HHS). As described in Sutherland's May 11 [Legal Alert](#), the ERRP is established under the Patient Protection and Affordable Care Act (PPACA) to permit sponsors of retiree medical plans to obtain government reimbursements for certain early retirees' benefits. HHS issued an [interim final rule](#) implementing the ERRP on April 30, 2010, and the program became effective as of June 1, 2010.

In addition to the draft application, OMB has posted the draft ERRP application instructions and an HHS supporting statement for the draft application and instructions. A review of the package yields the following preliminary insights concerning the application process:

- HHS plans to utilize outside contractors to assist in the administration of the program, including the creation of an online application. Applications will be submitted on paper until the online process is available.
- HHS estimates that it will take each plan sponsor an average of 35 hours to complete the application, but a total of 227 hours to comply with all the information collection requirements for the first year of the program, including completing the required information sharing agreements with the plan or insurance company, and developing and implementing required policies to protect against fraud, waste and abuse.
- The ERRP draft application must be executed by both an Authorized Representative and an "Account Manager." The Authorized Representative must be someone who has the authority to bind the plan sponsor to a contract and who holds a position of status and authority of or similar to that of the President, CFO, CEO or Human Resource Director. The Account Manager must be the individual who will coordinate the application process and serve as the primary HHS contact and may be an employee of the plan sponsor or a consultant. Both the Authorized Representative and the Account Manager must verify their identity by including their Social Security Numbers as part of the draft application.

Plan sponsors that intend to participate in the ERRP should consider using the draft application as a template for collecting data and drafting detailed descriptions of benefit options under the plan and its procedures to generate cost savings for chronic high cost conditions until the final application form becomes available. In addition, sponsors should immediately begin engaging counsel and vendors to assist with the ERRP's data collection and information sharing requirements.

A final version of the application is expected to be issued in mid- to late June.

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