

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-9996-N]

Early Retiree Reinsurance Program

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces that CMS is exercising its authority under section 1102(f) of the Affordable Care Act to stop accepting applications for the Early Retiree Reinsurance Program, due to the availability of funds, as of [OFR--insert date 30 calendar days after date of publication in the **Federal Register**].

EFFECTIVE DATE: This notice is effective [OFR--insert date of public inspection at the **Federal Register**].

FOR FURTHER INFORMATION CONTACT:

David Mlawsky, (410)786-6851.

SUPPLEMENTARY INFORMATION:

I. Background

The Patient Protection and Affordable Care Act (Pub. L. 111-148, enacted on March 23, 2010) (the Affordable Care Act), included a provision that establishes the temporary Early Retiree Reinsurance Program (ERRP), which provides reimbursement to eligible sponsors of employment-based plans for a portion of the costs of providing health coverage to early retirees (and eligible spouses, surviving spouses, and dependents of such retirees). Section

CMS-9996-N

1102(a)(1) of the Affordable Care Act, which is codified at 42 U.S.C. 18002(a)(1), requires the Secretary to establish the program within 90 days of enactment of the law (by June 21, 2010). On May 5, 2010, we published an interim final regulation with comment period in the **Federal Register** (75 FR 24450), implementing the program as of June 1, 2010.

Section 1102(e) of the Affordable Care Act appropriates funding of \$5 billion for the temporary program, which ends no later than January 1, 2014. To participate in the program, an employment-based plan must submit an application to the Secretary. A copy of the application can be found at www.errp.gov. Section 1102(f) of the Affordable Care Act grants the Secretary the authority to stop taking applications for participation in the program based on the availability of funding under section 1102(e) of the Affordable Care Act. The ERRP interim final regulation also grants the Secretary such authority (75 FR 24456).

II. Provisions of the Notice

Based on the amount of the \$5 billion in appropriated program funding that remains available and the rate at which it is being disbursed, we are announcing, under section 1102(f) of the Affordable Care Act, that we will no longer accept applications for the program after [OFR--insert date 30 calendar days after date of publication in the **Federal Register**]. We have projected the availability of program funding based on the rate at which appropriated funds are

CMS-9996-N

currently being used to reimburse plan sponsors, and we have concluded that we have approved a sufficient number of applications to exhaust the program funding. Applications were first accepted by the ERRP on June 29, 2010, and therefore, plan sponsors have so far had 9 months to submit applications if desired. As a result of this agency action, any program applications that CMS receives after [OFR--insert date 30 calendar days after date of publication in the **Federal Register**] will not be accepted for processing. Applications must be received in the program's Intake Center on or before [OFR--insert date 30 calendar days after date of publication in the **Federal Register**], to be accepted for processing. A copy of the application, as well as information on how to complete and send it, and where to send it, can be found on www.errp.gov. Merely postmarking an application before this date will not be sufficient. We will post additional information about the mechanics of not accepting such applications for processing, such as how we will respond upon receiving such an application, on www.errp.gov

We note that our decision to no longer accept applications after [OFR--insert date 30 calendar days after date of publication in the **Federal Register**], is based on the actual availability of remaining appropriated ERRP funds and the rate at which we have been disbursing reimbursement, as opposed to the projected amounts of ERRP reimbursements

CMS-9996-N

that applicants listed in their ERRP applications. Should circumstances related to the availability of ERRP funding change, we may decide it is appropriate to resume accepting ERRP applications. If this occurs, we will provide such notice in the **Federal Register**.

III. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. So, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995.

CMS-9996-N

Authority: 42 U.S.C. 18002(f)

Dated: March 29, 2011.

Donald M. Berwick,
Administrator,
Centers for Medicare & Medicaid
Services.

BILLING CODE 4120-01-P

[FR Doc. 2011-7934 Filed 03/31/2011 at 4:15 pm; Publication
Date: 04/05/2011]