

## § 149.30

(3) The evidence that was considered in making the reimbursement determination clearly shows on its face that an error was made.

*Group health plan* means group health plan as defined in 42 CFR 423.882 that provides health benefits to early retirees, but excludes Federal governmental plans.

*Health benefits* means medical, surgical, hospital, prescription drug, and other benefits that may be specified by the Secretary, whether self-funded or delivered through the purchase of health insurance or otherwise. Such benefits include benefits for the diagnosis, cure, mitigation, or prevention of physical or mental disease or condition with respect to any structure or function of the body. Health benefits do not include benefits specified at 45 CFR 146.145(c)(2) through (4).

*Incurred* means the point in time when the sponsor, health insurance issuer (as defined in 45 CFR 160.103), employment-based plan, plan participant, or a combination of these or similar stakeholders, become responsible for payment of the claim.

*Negotiated price concession* means any direct or indirect remuneration (including discounts, direct or indirect subsidies, charge backs or rebates, cash discounts, free goods contingent on a purchase agreement, up-front payments, coupons, goods in kind, free or reduced-price services, grants, or other price concessions or similar benefits) offered to some or all purchasers, which may include a sponsor, a health insurance issuer, or an employment-based plan) that would serve to decrease the costs incurred under the employment-based plan.

*Plan participant* means anyone enrolled in an applicable plan including an early retiree, as defined in this section, a retiree, a retiree's spouse and dependent, an active employee and an active employee's spouse and dependent.

*Plan year* means the year that is designated as the plan year in the plan document of an employment-based plan, except that if the plan document does not designate a plan year, if the plan year is not a 12-month plan year, or if there is no plan document, the plan year is:

## 45 CFR Subtitle A (10–1–12 Edition)

(1) The deductible or limit year used under the plan;

(2) The policy year, if the plan does not impose deductibles or limits on a 12-month basis;

(3) The sponsor's taxable year, if the plan does not impose deductibles or limits on a 12-month basis, and either the plan is not insured or the insurance policy is not renewed on a 12-month basis, or;

(4) The calendar year, in any other case.

*Post point-of-sale negotiated price concession* means any negotiated price concession that an employment-based plan or insurer receives with respect to a given health benefit, after making payment for that health benefit.

*Program* means the Early Retiree Reinsurance Program established in section 1102 of the Patient Protection and Affordable Care Act.

*Secretary* means the Secretary of the United States Department of Health & Human Services or the Secretary's designee.

*Sponsor* means a plan sponsor as defined in section 3(16)(B) of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1002(16)(B), except that in the case of a plan maintained jointly by one employer and an employee organization and for which the employer is the primary source of financing, the term means the employer.

*Sponsor agreement* means an agreement between the sponsor and the United States Department of Health & Human Services, or its designee, which is made to comply with the provisions of this part.

### Subpart B—Requirements for Eligible Employment-Based Plans

#### § 149.30 General requirements.

A sponsor is eligible to participate in the program if it meets the requirements of section 1102 of the Patient Protection and Affordable Care Act, this part, and guidance developed by the Secretary.

#### § 149.35 Requirements to participate.

(a) A sponsor's employment-based plan must—

(1) Be certified by the Secretary.