

§ 153.234

between the State supplemental attachment point and the national attachment point multiplied by the national coinsurance rate (or, if the State has established a State supplemental coinsurance rate, the State supplemental coinsurance rate);

(2) If the State has established a State supplemental reinsurance cap, to the extent the issuer's incurred claims costs for such benefits in the applicable benefit year exceed the national reinsurance cap but do not exceed the State supplemental reinsurance cap, the product of such claims costs between the national reinsurance cap and the State supplemental reinsurance cap multiplied by the national coinsurance rate (or, if the State has established a State supplemental coinsurance rate, the State supplemental coinsurance rate); and

(3) If the State has established a State supplemental coinsurance rate, the product of the issuer's incurred claims costs for such benefits in the applicable benefit year between the national attachment point and the national reinsurance cap multiplied by the difference between the State supplemental coinsurance rate and the national coinsurance rate.

(e) *Uniform adjustment to payments under State supplemental reinsurance payment parameters.* If all requested reinsurance payments under the State supplemental reinsurance parameters calculated in accordance with paragraph (a)(1) of this section from all reinsurance-eligible plans in a State for a benefit year will exceed all reinsurance contributions collected under § 153.220(d)(1)(ii) or funds under § 153.220(d)(2) for the applicable benefit year, the State must determine a uniform pro rata adjustment to be applied to all such requests for reinsurance payments. Each applicable reinsurance entity in the State must reduce all such requests for reinsurance payments for the applicable benefit year by that adjustment.

(f) *Limitations on payments under State supplemental reinsurance parameters.* A State must ensure that:

(1) The payments made to issuers must not exceed the issuer's total paid amount for the reinsurance-eligible claim(s); and

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(2) Any remaining additional funds for reinsurance payments collected under § 153.220(d)(1)(ii) must be used for reinsurance payments under the State supplemental reinsurance payment parameters in subsequent benefit years.

[78 FR 15526, Mar. 11, 2013]

§ 153.234 Eligibility under health insurance market rules.

A reinsurance-eligible plan's covered claims costs for an enrollee incurred prior to the application of the following provisions do not count towards either the national reinsurance payment parameters or the State supplemental reinsurance payment parameters: 45 CFR 147.102, 147.104 (subject to 147.145), 147.106 (subject to 147.145), 156.80, and subpart B of part 156.

[78 FR 15527, Mar. 11, 2013]

§ 153.235 Allocation and distribution of reinsurance contributions

(a) *Allocation of reinsurance contributions.* HHS will allocate and disburse to each State operating reinsurance (and will distribute directly to issuers if HHS is operating reinsurance on behalf of a State), reinsurance contributions collected from contributing entities under the national contribution rate for reinsurance payments. The disbursed funds would be based on the total requests for reinsurance payments made under the national reinsurance payment parameters in all States and submitted under § 153.410, net of any adjustment under § 153.230(d).

(b) *Excess reinsurance contributions.* Any reinsurance contributions collected from contributing entities under the national contribution rate for reinsurance payments for any benefit year but unused for the applicable benefit year will be used for reinsurance payments under the national reinsurance payment parameters for subsequent benefit years.

[78 FR 15527, Mar. 11, 2013]

§ 153.240 Disbursement of reinsurance payments.

(a) *Data collection.* If a State establishes a reinsurance program, the State must ensure that the applicable reinsurance entity:

(1) Collects data required to determine reinsurance payments as described in § 153.230 and § 153.232, as applicable, from an issuer of reinsurance-eligible plans or is provided access to such data, according to the data requirements specified by the State in the State notice of benefit and payment parameters described in subpart B of this part.

(2) Makes reinsurance payments to the issuer of a reinsurance-eligible plan after receiving a valid claim for payment from that health insurance issuer in accordance with the requirements of § 153.410.

(3) Provides a process through which an issuer of a reinsurance-eligible plan that does not generate individual enrollee claims in the normal course of business may use estimated claims costs to make a request for payment (or to submit data to be considered for reinsurance payments) in accordance with the requirements of § 153.410. The State must ensure that such requests for reinsurance payment (or a subset of such requests) are subject to validation.

(b) *Notification of reinsurance payments.* For each applicable benefit year,

(1) A State, or HHS on behalf of the State, must notify issuers annually of:

(i) Reinsurance payments under the national payment parameters, and

(ii) Reinsurance payments under the State supplemental payment parameters if applicable, to be made for the applicable benefit year no later than June 30 of the year following the applicable benefit year.

(2) A State must provide to each issuer of a reinsurance-eligible plan the calculation of total reinsurance payment requests, on a quarterly basis during the applicable benefit year in a timeframe and manner specified by HHS, made under:

(i) The national reinsurance payment parameters, and

(ii) State supplemental reinsurance payments parameters if applicable.

(c) *Maintenance of records.* If a State establishes a reinsurance program, the State must maintain documents and records relating to the reinsurance program, whether paper, electronic, or in other media, for each benefit year for at least 10 years, and make them avail-

able upon request from HHS, the OIG, the Comptroller General, or their designees, to any such entity. The documents and records must be sufficient to enable the evaluation of the State-operated reinsurance program's compliance with Federal standards. The State must also ensure that its contractors, subcontractors, and agents similarly maintain and make relevant documents and records available upon request from HHS, the OIG, the Comptroller General, or their designees, to any such entity.

(d) *Privacy and security.* (1) If a State establishes a reinsurance program, the State must ensure that the applicable reinsurance entity's collection of personally identifiable information is limited to information reasonably necessary for use in the calculation of reinsurance payments, and that use and disclosure of personally identifiable information is limited to those purposes for which the personally identifiable information was collected (including for purposes of data validation).

(2) If a State establishes a reinsurance program, the State must ensure that the applicable reinsurance entity implements security standards that provide administrative, physical, and technical safeguards for the personally identifiable information consistent with the security standards described at 45 CFR 164.308, 164.310, and 164.312.

[77 FR 17247, Mar. 23, 2012, as amended at 78 FR 15527, Mar. 11, 2013; 78 FR 65093, Oct. 30, 2013]

§ 153.250 Coordination with high-risk pools.

(a) *General requirement.* The State must eliminate or modify any State high-risk pool to the extent necessary to carry out the reinsurance program established under this subpart.

(b) *Coordination with high-risk pools.* The State may coordinate the State high-risk pool with the reinsurance program to the extent that the State high-risk pool conforms to the provisions of this subpart.

§ 153.260 General oversight requirements for State-operated reinsurance programs.

(a) *Accounting requirements.* A State that establishes a reinsurance program