

## § 153.265

must ensure that its applicable reinsurance entity keeps an accounting for each benefit year of:

(1) All reinsurance contributions received from HHS for reinsurance payments and for administrative expenses;

(2) All claims for reinsurance payments received from issuers of reinsurance-eligible plans;

(3) All reinsurance payments made to issuers of reinsurance-eligible plans; and

(4) All administrative expenses incurred for the reinsurance program.

(b) *State summary report.* A State that establishes a reinsurance program must submit to HHS and make public a report on its reinsurance program operations for each benefit year in the manner and timeframe specified by HHS. The report must summarize the accounting for the benefit year kept pursuant to paragraph (a) of this section.

(c) *Independent external audit.* A State that establishes a reinsurance program must engage an independent qualified auditing entity to perform a financial and programmatic audit for each benefit year of its State-operated reinsurance program in accordance with generally accepted auditing standards (GAAS). The State must:

(1) Provide to HHS the results of the audit, in the manner and timeframe to be specified by HHS;

(2) Ensure that the audit addresses the prohibitions set forth in §153.265;

(3) Identify to HHS any material weakness or significant deficiency identified in the audit, and address in writing to HHS how the State intends to correct any such material weakness or significant deficiency; and

(4) Make public a summary of the results of the audit, including any material weakness or significant deficiency and how the State intends to correct the material weakness or significant deficiency, in the manner and timeframe to be specified by HHS.

[78 FR 65093, Oct. 30, 2013]

### §153.265 Restrictions on use of reinsurance funds for administrative expenses.

A State that establishes a reinsurance program must ensure that its applicable reinsurance entity does not

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use any funds for the support of reinsurance operations, including any reinsurance contributions provided under the national contribution rate for administrative expenses, for any of the following purposes:

(a) Staff retreats;

(b) Promotional giveaways;

(c) Excessive executive compensation; or

(d) Promotion of Federal or State legislative or regulatory modifications.

[78 FR 65093, Oct. 30, 2013]

### § 153.270 HHS audits of State-operated reinsurance programs.

(a) *Audits.* HHS or its designee may conduct a financial and programmatic audit of a State-operated reinsurance program to assess compliance with the requirements of this subpart or subpart B of this part. A State that establishes a reinsurance program must ensure that its applicable reinsurance entity and any relevant contractors, subcontractors, or agents cooperate with any audit under this section.

(b) *Action on audit findings.* If an audit results in a finding of material weakness or significant deficiency with respect to compliance with any requirement of this subpart or subpart B, the State must ensure that the applicable reinsurance entity:

(1) Within 60 calendar days of the issuance of the final audit report, provides a written corrective action plan to HHS for approval;

(2) Implements that plan; and

(3) Provides to HHS written documentation of the corrective actions once taken.

[79 FR 13835, Mar. 11, 2014]

### Subpart D—State Standards Related to the Risk Adjustment Program

#### § 153.300 [Reserved]

#### § 153.310 Risk adjustment administration.

(a) *State eligibility to establish a risk adjustment program.* (1) A State that elects to operate an Exchange is eligible to establish a risk adjustment program.