Office of Personnel Management

Federal Employees Health Benefits Program: New Premium Rating Method for Most Community Rated Plans; Withdrawal; Final Rules

Federal Employees Health Benefits Program: New Premium Rating Method for Most Community Rated Plans; Withdrawal

**AGENCY:** U.S. Office of Personnel Management.

**ACTION:** Interim final rule; withdrawal.

**SUMMARY:** The U.S. Office of Personnel Management (OPM) is issuing an interim final regulation amending the Federal Employees Health Benefits (FEHB) regulations and also the Federal Employees Health Benefits Acquisition Regulation (FEHBAR). This interim final regulation replaces the procedure by which premiums for community rated FEHB carriers are compared with the rates charged to a carrier’s similarly sized subscriber groups (SSSGs). This new procedure utilizes a medical loss ratio (MLR) threshold, analogous to that defined in both the Affordable Care Act (ACA, Pub. L. 111–148) and the Department of Health and Human Services (HHS) interim final regulation published December 1, 2010 (75 FR 74864). The purpose of this interim final rule is to replace the outdated SSSG methodology with a more modern and transparent calculation while still ensuring that the FEHB is receiving a fair rate. This will result in a more streamlined process for plans and increased competition and plan choice for enrollees. The new process will apply to all community rated plans, except those under traditional community rating (TCR). This new process will be phased in over two years, with optional participation for non-TCR plans in the first year. Effective for 2011, most health insurance issuers, beginning in calendar year 2011, meet an MLR of 85% for large groups, (i.e., non-claim costs may not exceed 15%). If an issuer does not meet the MLR target, it must pay a premium rebate.

**FEHB-Specific MLR Threshold**

Under this OPM regulation, in addition to being subject to the ACA-required MLR, most FEHB community rated plans will be required to meet an FEHB-specific MLR threshold for the annual rates negotiated for their Federal enrollment. This new requirement will be included in 48 CFR 1615.402(c)(3)(iii) and will be phased in over two years. If the plan falls below the FEHB-specific MLR threshold, the plan must pay a subsidy penalty into a newly established Subsidization Penalty Account (defined in 5 CFR 890.503(c)(6)). The FEHB-specific MLR threshold will be set in OPM’s annual rate instructions to FEHB plans published in the spring of each year, rather than by regulation. If the plan has met or exceeded the FEHB-specific MLR threshold, there is no exchange of funds or adjustment of premiums necessary. This rule establishes a process by which FEHB community rated plans (other than plans using TCR) will calculate and submit the MLR for their FEHB plans. This process will take place after the end of the plan year and after the carrier has calculated and submitted to HHS the ACA-required MLR. Under this regulation, premium rates for community rated plans will continue to be negotiated prior to the plan year based on the plan’s community rating methodology. There