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RBG Tip Sheet

Blue Shield MLR Rebates 10.7.16



The Affordable Care Act requires Blue Shield of California to spend a certain percentage of premium revenue on medical expenses. This percentage is known as the medical loss ratio (MLR). The MLR reporting and rebate requirements apply to all fully insured group and individual plans, including grandfathered plans. They do not apply to self-funded (ASO) business. MLR calculations and rebate determinations are based on market segment. All plans are grouped by market (individual, small business and large group), and rebates are paid to all plans in the market if the minimum loss ratio is not met.

Blue Shield of California owes rebates to approximately 30,000 small business policyholders in plans regulated by the Department of Managed Health Care (DMHC). As required by law, rebates will be paid by September 30, 2016 to Small Business contract holders (businesses, not individuals) in those plans with the rebates based on their premiums paid in 2015. A list of your impacted clients will be available in the next 2 weeks.

Contact Producer Services (800) 559-5905 for details on your impacted clients.

Additional general MLR information is also available on the Blue Shield Website:

- [Medical Loss Ratio: Why it Matters to You](#)
- [Background and Talking Points](#)

Compliance Tips:

According to the [U.S. Department of Labor's Technical Release No. 2011-04](#), rebates can be allocated in one of three ways:

1. To reduce the subscribers' portion of the annual premium for the subsequent policy year for all subscribers covered under any group health policy offered by the plan;
2. To reduce the subscribers' portion of the annual premium for the subsequent policy year for only those subscribers covered by the group health policy on which the rebate was based; or
3. To provide a cash refund only to subscribers that were covered by the group health policy on which the rebate is based

Also:

- In deciding on an allocation method, the plan fiduciary may properly weigh the costs to the plan and the ultimate plan benefit as well as the competing interests of participants or classes of participants provided such method is reasonable, fair and objective.
- Various entities recommend allocating the rebate as a reduction to current premiums for currently enrolled participants (option 1 above).
- Where a plan provides benefits under multiple policies, the fiduciary should allocate or apply the plan's portion of a rebate for the benefit of participants and beneficiaries who are covered by the policy to which the rebate relates provided doing so would be prudent and solely in the interests of the plan

according to the above analysis. However, the use of a rebate generated by one plan to benefit the participants of another plan would be a breach of the duty of loyalty to a plan's participants.

- If the funds are not applied as a credit against current/future premiums, review any applicable tax consequences that may apply if the funds are paid as cash/check/earnings to the participants.
- Employers are not required to track down former employees and attempt to provide them with a rebate if the employer finds that the cost of doing so equals or exceeds the amount of the former employee's share of the rebate.
- COBRA participants are to be treated the same as regular active employees.
- Be prepared to provide a written response to inquiries from participants on how the rebate is being allocated.
- If allocating the rebate based on the participants % of contributions towards the total cost of coverage, it is always best to err in the participants favor.

For more details, refer to:

[Congressional Loss Ratio Requirements](#)

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