

July 28, 2006

CMS Office of Strategic Operations and Regulatory Affairs
Division of Regulations Development – B
Attention: William N. Parham, III
Room C4-26-05
7500 Security Boulevard
Baltimore, MD 21244-1850

AUG - 1 2006

RE: Form CMS-10198 (OMB#: 0938-New)

To Whom It May Concern:

The comments below are submitted on behalf of Zenith Administrators, a nationwide Third Party Administrator (TPA) specializing in the administration of multiemployer plans. These comments are based on our experience in assisting our clients with these disclosures. The first comment is particularly relevant to certain multiemployer health plans, while the second pertains to Plan Sponsors (including several of our clients) who have applied for the Retiree Drug Subsidy.

Authorized Individual

Instruction #13 includes the following statement:

“Name, Title and Email of the Entity’s Authorized Individual. An individual employed by the entity and completing the form must provide his or her name, title and email.”

Multiemployer plans are sponsored by a Board of Trustees. Many such Boards have no employees, and instead outsource all day-to-day administrative tasks to TPAs and other vendors. The Trustees are a group of business executives and labor union leaders who are responsible for establishing plan policies and overseeing plan operations. It is not reasonable to require Trustees to complete complex on-line forms. They delegate such administrative tasks to their vendors.

The Retiree Drug Subsidy program wisely separated the roles of Account Manager and Authorized Representative, allowing the role of Account Manager to be delegated to an appropriate individual who may or may not be an employee of the Plan Sponsor. This model works well for multiemployer plans. However, rather than exactly emulating the RDS model, I recommend that this disclosure form be more like an individual tax return, with optional spaces for the name and email address of the Preparer. The Preparer would be someone other than an employee of the Plan Sponsor who has been authorized by the Plan Sponsor to complete and submit the disclosure form on behalf of the Plan Sponsor.

Number of Individuals

Instruction #9 includes the following statement:

“This estimate should be the total number of Medicare eligible individual [sic] expected to be covered under all of the entity’s prescription drug plan options (this includes active, disabled, individuals on COBRA and retired individuals) and should NOT include any RDS participants.”

Similarly, instruction #10 includes the following statement:

“This estimate should be the total number of Medicare eligible individuals expected to be covered under the entity’s Retiree prescription drug plan options on the beginning date of the plan year and should NOT include any RDS participants.”

The confusion inherent in these instructions should be self-evident. The required number is not the “total number” of individuals, since the true total would include the so-called “RDS participants” (which in any case is a meaningless term, because individuals do not “participate” in the RDS program). The number being requested here is actually the remainder after subtracting the RDS count from the total. Anyone who tried to fill in this screen without having closely read the instructions (which is what most individuals do) would have no clue that the field labeled “Total Number” was actually intended to capture something other than the total.

However, the recommended solution is not merely to clarify the wording but rather to simplify the process. By requiring Plan Sponsors to subtract the number of individuals who have been approved by the RDS program (a number which may change from week to week), CMS makes the process of preparing this form unnecessarily complicated. Since CMS already has access to the number of individuals have been approved by RDS, CMS should require Plan Sponsors to disclose the total estimated number of covered individuals rather than the remainder. CMS can then subtract one number from the other if it wishes to do so. If CMS would find it difficult to match this disclosure record to the corresponding RDS application, CMS could add a space to the disclosure form for the RDS Plan Sponsor ID.

Please contact me if you have any questions.



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