

## CMS Cost Sharing Reduction Reconciliation Reporting for QHPs

by [Helaine I. Fingold](#) and [Linda V. Tiano](#)

October 2014

Qualified Health Plans (“QHPs”) and other stakeholders have until October 27, 2014, to comment on CMS’s proposed cost sharing reduction payment reconciliation reporting process. On Friday, September 26, 2014, CMS released information on the proposed data elements to be collected as part of the cost sharing reduction payment annual reconciliation process.<sup>1</sup> QHPs participating in both federally-facilitated and state-based exchanges will receive advance payments of cost sharing reductions for eligible individuals. Those cost sharing reductions are paid by the QHP issuers to the eligible individuals’ health care providers, to lower the individuals’ out-of-pocket costs, thereby making care more affordable.<sup>2</sup>

To implement the cost sharing reductions required by the Affordable Care Act (“ACA”), QHPs must develop and offer three silver plan variations in addition to their standard silver plan offering. The purpose of the variations is to reflect the impact of the cost sharing reductions at various income levels, allowing individuals to pay an income-appropriate reduced cost sharing amount at the site of service.<sup>3</sup>

<sup>1</sup> Agency Information Collection Activities: Submission for OMB Review; Comment Request, Cost Sharing Reduction Reconciliation, 79 FR 57932 (September 26, 2014), <http://www.gpo.gov/fdsys/pkg/FR-2014-09-26/pdf/2014-22980.pdf>.

<sup>2</sup> Individuals eligible for cost sharing reductions are those with household incomes of between 100 percent and 250 percent of the federal poverty level (FPL) who are enrolled in a silver level QHP in the individual market on a federally-facilitated or state-based exchange. See ACA § 1402(b).

<sup>3</sup> A standard silver level plan is required to have an actuarial value (AV) of 70 percent, meaning that it covers 70 percent of the costs of coverage for a typical group of enrollees. 45 C.F.R. § 156.140. The silver plan variations have corresponding AV levels of: 94 percent for those with incomes between 100 to 150 percent of the federal poverty level (FPL), 87 percent for those with incomes between 150 and 200 percent of FPL, and 73 percent for those with incomes between 200 and 250 percent of FPL. 45 C.F.R. § 155.305; 45 C.F.R. § 156.420.

Until 2016, QHPs may choose one of two methodologies—standard or simplified—to calculate cost sharing reductions paid and to report this information to CMS in order to reconcile the cost sharing payments made by the QHPs with the amounts advanced by CMS. After 2016, QHPs may only use the standard methodology to calculate cost sharing reductions. Under the standard methodology, the data must identify the amount of cost sharing paid by eligible individuals in each plan variation as compared to the amount these individuals would have paid under the standard plan.<sup>4</sup> The cost sharing paid by the QHP is the difference between those two amounts. The simplified methodology requires QHP issuers to calculate the amount eligible individuals would have paid under the standard plan by applying four cost sharing parameters for the standard plan to the total allowed costs paid for essential health benefits under the cost sharing reduction plan variation.<sup>5</sup> The four cost sharing parameters are the effective deductible, the effective pre-deductible coinsurance rate, the effective post-deductible coinsurance rate, and the effective claims ceiling.

The data elements that QHPs must collect and report for the proposed data template can be accessed at [CMS-10526 CMS Recon PRA Data Collection Elements](#) and must be provided regardless of which methodology is used for the reconciliation. CMS states in its response to comments submitted on a prior posting of this information that guidance on the audit process for cost sharing reduction reconciliation will be forthcoming.

As previously noted, public comment on the revised regulations will be accepted through October 27, 2014. Epstein Becker Green is available to assist with the drafting and submission of comments to the CMS.

\* \* \*

*This Client Alert was authored by **Helaine I. Fingold** and **Linda V. Tiano**. For additional information about the issues discussed in this Client Alert, please contact one of the authors or the Epstein Becker Green attorney who regularly handles your legal matters.*

### **About Epstein Becker Green**

Epstein Becker & Green, P.C., established in 1973, is a national law firm with approximately 250 lawyers practicing in 10 offices, in Baltimore, Boston, Chicago, Houston, Los Angeles, New York, Newark, San Francisco, Stamford, and Washington, D.C. The firm's areas of practice include health care and life sciences; employment, labor, and workforce management; and litigation and business disputes. Founded as an industry-focused firm, Epstein Becker Green has decades of experience serving clients in health care, financial services, retail, hospitality, and technology, among other industries, representing entities from startups to Fortune 100 companies. For more information, visit [www.ebglaw.com](http://www.ebglaw.com).

### **IRS Circular 230 Disclosure**

To ensure compliance with requirements imposed by the IRS, we inform you that any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of: (i) avoiding any tax penalty, or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

<sup>4</sup> 45 C.F.R. § 156.430(c)(2).

<sup>5</sup> 45 C.F.R. § 156.400(c)(4).

# HEALTH CARE & LIFE SCIENCES

If you would like to be added to our mailing list or need to update your contact information, please contact Lisa C. Blackburn at [lblackburn@ebglaw.com](mailto:lblackburn@ebglaw.com) or 202-861-1887.

## BALTIMORE

Helaine I. Fingold  
Joshua J. Freemire  
Thomas E. Hutchinson\*  
John S. Linehan

## BOSTON

Emily E. Bajcsi  
Barry A. Guryan

## CHICAGO

Ryan R. Benz  
Amy K. Dow  
James M. Knick  
Griffin W. Mulcahey  
Kevin J. Ryan

## HOUSTON

Mark S. Armstrong  
Daniel E. Gospin

## LOS ANGELES

Adam C. Abrahms  
Dale E. Bonner  
Ted A. Gehring  
Paul A. Gomez  
J. Susan Graham  
Kim Tyrrell-Knott

## NEW YORK

Jeffrey H. Becker  
Lindsay M. Borgeson\*  
Michelle Capezza  
Aime Dempsey  
Kenneth W. DiGia  
Jerrold I. Ehrlich  
Gregory H. Epstein  
Hanna Fox  
James S. Frank  
Arthur J. Fried  
John F. Gleason  
Robert D. Goldstein  
Robert S. Groban, Jr.  
Gretchen Harders  
Evan M. Hellman  
Bethany J. Hills  
Jennifer M. Horowitz  
Kenneth J. Kelly  
Joseph J. Kempf, Jr.  
Stephanie G. Lerman  
Leonard Lipsky  
Purvi Badiani Maniar  
Wendy G. Marcari  
Eileen D. Millett  
Jackie Selby  
Catherine F. Silie  
Victoria M. Sloan

Steven M. Swirsky  
Natasha F. Thoren  
Benjamin M. Zegarelli

## NEWARK

Joan A. Disler  
James P. Flynn  
Daniel R. Levy  
Maxine Neuhauser  
Mollie K. O'Brien  
Sheila A. Woolson

## STAMFORD

Ted Kennedy, Jr.  
David S. Poppick

## WASHINGTON, DC

Alan J. Arville  
Kirsten M. Backstrom  
Clifford E. Barnes  
James A. Boiani  
Selena M. Brady  
George B. Breen  
Merlin J. Brittenham\*  
Lee Calligaro  
Jesse M. Caplan  
Meghan F. Chapman\*  
Jason E. Christ

Tanya V. Cramer  
Anjali N.C. Downs  
Steven B. Epstein  
John W. Eriksen  
Wandaly E. Fernández\*  
Daniel C. Fundakowski  
Brandon C. Ge  
Stuart M. Gerson  
Daniel G. Gottlieb  
M. Brian Hall, IV\*  
Philo D. Hall  
Douglas A. Hastings  
Robert J. Hudock  
Marshall E. Jackson Jr.  
S. Lawrence Kocot  
William G. Kopit  
Ali Lakhani  
Amy F. Lerman  
Christopher M. Locke  
Katherine R. Lofft  
Mark E. Lutes  
Teresa A. Mason  
David E. Matyas  
Colin G. McCulloch  
Frank C. Morris, Jr.  
Evan J. Nagler  
Leslie V. Norwalk  
Shilpa Prem\*

René Y. Quashie  
Jonah D. Retzinger  
Serra J. Schlanger  
Bonnie I. Scott  
Deepa B. Selvam  
Lynn Shapiro Snyder  
Adam C. Solander  
Danielle L. Steele  
David B. Tatge  
Daly D.E. Temchine  
Bradley Merrill Thompson  
Linda V. Tiano  
Carrie Valiant  
Patricia M. Wagner  
Robert E. Wanerman  
Constance A. Wilkinson  
Kathleen M. Williams  
Lesley R. Yeung

*\*Not Admitted to the Practice of Law*

This document has been provided for informational purposes only and is not intended and should not be construed to constitute legal advice. Please consult your attorneys in connection with any fact-specific situation under federal law and the applicable state or local laws that may impose additional obligations on you and your company.