

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-9970-NC]

Request for Information Regarding the Reinsurance Program under the Affordable Care Act

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Request for Information.

SUMMARY: This notice is a request for information (RFI) to gain market information on entities that could administer a transitional reinsurance program. This RFI will inform one or more future Requests for Proposals (RFP). This RFI solicits information about entities that could function as a reinsurance entity for the transitional reinsurance program. CMS or one or more States may contract for services required to fulfill the statutory and regulatory requirements of the reinsurance entity.

DATES: Submit written or electronic comments by [Insert date 30 days after date of publication in the **Federal Register**].

ADDRESSES: In responding, please refer to file code CMS-9970-NC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit responses in one of four ways (please choose only one of the ways listed):

1. Electronically. You may submit electronic comments on this regulation to **<http://www.regulations.gov>**. Follow the instructions under the "More Search Options" tab.
2. By regular mail. You may mail written comments to the following address ONLY:
Centers for Medicare & Medicaid Services,

Department of Health and Human Services,
Attention: CMS-9970-NC,
P.O. Box 8016,
Baltimore, MD 21244-8016.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. By express or overnight mail. You may send written comments to the following address ONLY:

Centers for Medicare & Medicaid Services,
Department of Health and Human Services,
Attention: CMS-9970-NC,
Mail Stop C4-26-05,
7500 Security Boulevard,
Baltimore, MD 21244-1850.

4. By hand or courier. If you prefer, you may deliver (by hand or courier) your written comments before the close of the comment period to either of the following addresses:

a. For delivery in Washington, DC--
Centers for Medicare & Medicaid Services,
Department of Health and Human Services,
Room 445-G, Hubert H. Humphrey Building,
200 Independence Avenue, S.W.,
Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD--

Centers for Medicare & Medicaid Services,
Department of Health and Human Services,
7500 Security Boulevard,
Baltimore, MD 21244-1850.

If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786-9994 in advance to schedule your arrival with one of our staff members.

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, see the beginning of the "SUPPLEMENTARY INFORMATION" section.

FOR FURTHER INFORMATION CONTACT:

Milan Shah, 301-492-4427.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been

received: <http://www.regulations.gov>. Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1-800-743-3951.

We note that responses to this RFI are not offers, and cannot be accepted by the Government to form a binding contract or to issue a grant. The purpose of this RFI is to inform one or more Requests for Proposals, not to gather public comments on the proposed rules for reinsurance, risk corridors, or risk adjustment under the Affordable Care Act. Those comments have been collected and are being evaluated separately. Information obtained in response to this RFI may be used by the Government for program planning and development, or other purposes with or without attribution. Do not include any information that might be considered proprietary or confidential.

I. Background

Section 1341 of the Patient Protection and Affordable Care Act (Pub. L. 111-148, enacted on March 23, 2010) (the Affordable Care Act), provides that each State must establish a transitional reinsurance program to help stabilize premiums for coverage in the individual market during the first three years of Exchange operation (2014-2016). The reinsurance program, which is a State-based program, will reduce the uncertainty of insurance risk in the individual market by making payments for high-cost cases. This program will stabilize individual market rate increases that might otherwise occur because of the immediate enrollment of individuals with

unknown health status, potentially including, at the State's discretion, those currently in State high-risk pools. CMS published proposed rules for States and health insurance issuers for this reinsurance program on July 15, 2011 (76 FR 41930).

The Affordable Care Act instructs each State to establish or contract with an entity to carry out the reinsurance program. Section 1321(c)(1) of the Affordable Care Act directs the Secretary to take such actions as are necessary to implement the reinsurance program in a State if a State has not taken action necessary to do so. The reinsurance entity, whether operating under contract with a State or CMS, must be a not-for-profit organization with a tax-exempt status.

II. Request for Information

This RFI seeks comment on the entities that could carry out the transitional reinsurance program. CMS may enter into one or more contracts to fulfill the statutory and regulatory requirements of the transitional reinsurance program established under section 1341 of the Affordable Care Act depending on the workload and number of States that would require assistance. In such a case, the contractor may be tasked with one or more of the following functions:

- Collecting reinsurance contributions;
- Accepting and validating requests for reinsurance payments;
- Remitting reinsurance payments;
- Reconciling and verifying reinsurance contributions and payments;
- Maintaining records; and,
- Providing customer support to issuers.

CMS is seeking to engage formally, in a transparent and participatory manner, with entities that understand the reinsurance market, and would be able to perform the responsibilities

of a reinsurance entity under the statute and associated regulations. In carrying out the transitional reinsurance program, CMS seeks to mitigate conflicts of interest (COI) that may arise if potential market competitors operate the reinsurance program. As such, we request any information on potential COIs, and potential avenues for mitigation, from all stakeholders, including issuers and third-party administrators.

Infrastructure

1. Does your organization operate as a not-for-profit reinsurance entity in the State(s) in which you currently conduct business?

2. If your organization operates as a reinsurance entity but does not function as a not-for-profit, what steps would have to be taken to convert the organization or the part of that organization responsible for reinsurance operations into a not-for-profit entity? What other considerations should be taken into account in connection with such a conversion?

3. What other steps must your organization take in order to be prepared to smoothly transition into a role as administrator of a new temporary reinsurance program?

4. Does your organization operate nationally or in limited geographic areas? If the latter, what are the geographic areas?

5. Would your organization be able and willing to contract with a State and/or the Federal government to operate a temporary reinsurance program?

6. Are there any State and/or local licensing requirements that must be considered by an organization operating as such a reinsurance entity?

7. What potential conflicts of interest (COI) could arise if your organization were to operate such a reinsurance program as a not-for-profit entity? How might these COIs be mitigated?

8. For organizations that do not currently have COI mitigation programs, what steps would have to be taken to develop and execute such a program?

9. What is a reasonable amount of time for your organization to become fully operational (for example, have all systems in place to operate a reinsurance program) after the date of a contract award? What resources would be necessary?

Collection and Disbursement of Reinsurance Funds

10. Describe your organization's ability to perform the following functions:

- Collecting reinsurance contributions;
- Accepting and validating requests for reinsurance payments;
- Remitting reinsurance payments; and,
- Reconciling and verifying reinsurance contributions and payments.

11. What services related to the collection of reinsurance contributions, or disbursement of reinsurance payments to another entity would your organization need to subcontract due to a lack of capacity, expertise, or experience?

12. What COIs could arise for such potential subcontractors?

Data Collection

13. Describe current data systems that are used by your organization, including any standards, security systems, and web-based interactive structure. Are your systems compliant or have the capability of being Section 508 compliant <<http://www.section508.gov/>>?

14. Do your organization's current data systems have the capability to interface with external systems to accept data and reports? If yes, what types of interfaces are currently in place?

15. What data are currently collected by your organization related to medical costs?

16. What is your organization's current capacity for collecting and verifying claims submissions from issuers? What processes does your organization have in place to ensure confidentiality and security protections of patient information?

17. In what formats does your organization currently collect data? Can your organization support other formats? If so, which ones?

18. Would your organization need to subcontract any services related to data collection?

19. What COIs could arise for such subcontractors?

Customer Support

20. What telecommunication and technical support systems does your organization currently maintain for health insurance issuers or other commercial clients (for example, websites, 24-hour hotlines, helpdesk)?

21. Are your support systems compliant or have the capability of being Section 508 compliant <<http://www.section508.gov/>>?

22. Would your organization need to subcontract any services related to data collection?

23. What COIs could arise for such subcontractors?

Evaluation

24. Does your organization currently conduct evaluations of operations and activities? Do such evaluations include a financial assessment of your organization's activities?

25. What are your organization's current financial and data reconciliation processes?

Authority: (Catalog of Federal Domestic Assistance Program No. 93.773, Medicare--Hospital Insurance; and Program No. 93.774, Medicare--Supplementary Medical Insurance Program)

Dated: January 20, 2012

Charles Littleton

Contracting Officer.

Office of Acquisition and Grants Management.

Centers for Medicare and Medicaid Services.

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