

RDS RECONCILIATION – HOW USING A CMS “REOPENING” PROVISION COULD CREATE MORE SUBSIDY DOLLARS

Years after the launch of the Retiree Drug Subsidy program, CMS regulations are beginning to provide some clarity to questions that many plan sponsors have had since the program began. One such area where guidance has been sought is how does a plan sponsor essentially amend or correct prior period RDS applications or reconciliations? Regulations now exist that allow plan sponsors, under very specific circumstances, to remedy situations where it has discovered that inaccurate or incomplete data was submitted on application years now closed.

RECONCILIATION

The purpose of the RDS Reconciliation process is to report actual total gross retiree prescription drug costs including actual rebates and price concession data for a specific Application year. It's important to remember that for every Application year you receive subsidy there comes an obligation to complete a final Reconciliation for that year. This Reconciliation requires a final reporting of all eligibility, claims, and rebate information and **must** be completed no later than 15 months after the end of each Application year. If the 12 steps of reconciliation are not completed within 15 months, all RDS amounts paid to the Plan Sponsor, for that particular application, will be considered an overpayment and CMS will institute proceedings to recover such amounts.

Most of Reconciliation is rather simple, but a few steps are critical and are explained in more detail below

Request & Verify Accuracy of Covered Retiree List

In steps 3 & 4 of the Reconciliation process, a Covered Retiree List is to be requested & verified for accuracy. You can upload changes and request the Covered Retiree List multiple times until you are satisfied with its accuracy. Some examples of what you may look for:

- 1) Retirees have not been uploaded for a specified RDS application year
- 2) Retiree subsidy periods are inaccurate
- 3) Benefit options changed during RDS application year for a retiree*

Make sure your carrier/PBM has the correct eligibility list to report costs. If the carrier's list does not match your list, the accuracy of final Reconciliation is jeopardized.

**If a retiree was covered under more than one benefit option within an application year, cost reporting for that retiree must be coordinated to appropriately report threshold and limit reductions. In addition, if there were mid year carrier changes, make sure that the previous carrier will provide the necessary information to their successor. Assurances must also be made that the new carrier can coordinate costs, thresholds, limits, and actual cost adjustments from the previous carrier with their data.*

During step 6 of reconciliation, final reconciliation cost reports must be submitted. You must work closely with your carriers/PBMs during this process as each has a different method of submitting or providing this data.

Step 12: You are now ready to review & submit your reconciliation payment request. This step can only be completed by the Authorized Representative. Remember, Step 12 cannot be completed until Step 1 through Step 11 is completed.

REOPENING RECONCILIATION

Why would a Plan Sponsor request a reopening of a completed Reconciliation?

If a Plan Sponsor discovers inaccurate or incomplete cost data.

What must a Plan Sponsor do upon discovering that it reported inaccurate data with its Reconciliation?

They must immediately determine whether the inaccurate data caused the Plan Sponsor to be paid too much or too little in subsidy and disclose the correct data to CMS. The post-Reconciliation data need not be broken down by benefit option or by month for the purpose of this disclosure but you must quantify the difference in subsidy caused by the corrected data and immediately report that amount to CMS.

What is the difference between “inaccurate” versus “incomplete” data?

Inaccurate data includes situations where the Plan Sponsor over or under-reported the gross costs associated with one or more paid claim for which some amount of the subsidy was requested, over or

under-reported threshold or limit reduction amounts, or over or under-reported actual cost adjustments. It also includes situations where the Plan Sponsor submitted a covered retiree list that included individuals who were not a qualified retiree during the RDS plan year.

What is “incomplete” data?

Incomplete data includes situations where the Plan Sponsor failed to report **any** of the gross costs associated with one or more paid claim. It also includes situations where the Plan Sponsor submitted a covered retiree list that did not include certain individuals who were qualified covered retirees during the RDS plan year.

In this situation, re-opening Reconciliation is NOT mandatory. In other words, the Plan Sponsor is not required to report the additional data or calculate the additional subsidy to CMS. However, it only makes sense to “re-open” an otherwise closed Application, if by reporting the additional data the plan sponsor is eligible for more subsidy. After requesting the reopening, CMS will notify the Plan Sponsor whether it may acquire additional subsidy, and what further steps, if any, they must take in order to do so.

Naturally, CMS does not mandate the Plan Sponsor reopen Reconciliation if incomplete (as opposed to inaccurate) data is submitted. This is because incomplete data will likely only generate more subsidy dollars for plan sponsors.

How would an RDS Plan Sponsor request a reopening of Reconciliation when it believes it provided inaccurate or incomplete data?

The request must comply with regulations at 42 CFR §423.890(d) and include the Plan Sponsor’s name, ID, application number, and contact information.

Make sure to indicate that you are requesting a reopening and provide a description of facts and circumstances related to the request. Also provide the gross costs, threshold reductions, limit reductions, and actual cost adjustments that you now wish the subsidy to be based upon in addition to the amount of subsidy you initially received.

If the request for reopening is submitted after one year, but within four years, explain why **good cause** exists to reopen Reconciliation.

Regulation 42 CFR §423.890(d) explains that you may request CMS reopen Reconciliation within one year for any reason. After one year, but within four years, CMS requires **good cause**. The descriptions provided for “good cause” are as follows:

- (i) New and material evidence exists that was not readily available at the time the initial determination was made;
- (ii) A clerical error in the computation of payments was made; or
- (iii) The evidence that was considered in making the determination clearly shows on its face that an error was made.

I participated in a webinar and asked RDS specific questions related to this –

Question - Have any Plan Sponsors to date requested a reopening of a Reconciliation? And if yes, what was the decision of CMS?

RDS Answer – Reopenings have been requested and CMS makes its decisions on a case by case basis.

Question - Would CMS consider reopening a Reconciliation if a cost data audit or retiree audit was performed and it was determined that costs or retirees weren’t accounted for when Reconciliation was completed?

RDS Answer – I cannot advise you about what CMS will consider. The only method to find out is to make a request.

If an audit is performed on the subsidy cost data or qualified retiree list and it is determined that the Reconciliation subsidy would increase based on this audit, we believe this is good cause and a reopening should be requested.

The reopening request must be sent in hard copy using the United States Postal Service (certified mail is recommended) to –

Retiree Drug Subsidy Center, Attn: Reopenings, PO Box 5060, NY NY 10274-5060

Or email to –

rds@cms.hhs.gov with the subject line of “Post Reconciliation Subsidy Discrepancy”

After the Plan Sponsor has made the request, CMS will notify you of any further action it may or must take, if any.

To request further information about this newsletter or any other RDS program questions, please contact Jayne Brown at 888-797-8274.