

COVID-19 Health Insurance Premium Refunds: Distributing Refunds to Plan Participants

*By Ashley Dillingham, J.D.
Compliance & HR Manager*

As a result of COVID-19, health insurance carriers have been paying out fewer medical claims than normal. This had led to a few carriers issuing premium refunds in the form of rebates or small rate reductions. Most of the medical refunds have only been offered to small groups (groups with less than 50 full time employees). Please read below for helpful information on this topic; specifically, how you should be distributing refunds to plan participants.

COVID-19 Premium Refunds: What Employers Need to Know

If your plan is **contributory** and **voluntary** (employee pays a portion or all of the premium) and your insurance carrier(s) issues a refund, you have a fiduciary duty (as the Plan Administrator) to distribute the prorated refunds to all current plan participants. An employer that pays 100% of the plan premiums is not required to distribute any portion of the refund to participants.

DOL Guidance on Distributing Refunds

The Department of Labor (DOL) has provided guidance on how an employer may distribute refunds to plan participants. This guidance is specifically related to Medical Loss Ratio (MLR) rebates but it is recommended that it also be followed when handling any type of refund from an insurance carrier.

Determining How Refunds Should be Distributed: Review Your Plan Documents

To determine how to distribute refunds to plan participants, you must consult your “governing plan documents.” Depending on the language in these documents, you may be limited on how refunds can be distributed.

If your documents are **silent or ambiguous** on how refunds are distributed, the DOL recommends using the following 3 options to distribute refunds:

- 1) Provide a cash refund;
- 2) Reduce the amount of annual premium owed for the subsequent policy year or allow for a reduced premium rate during the current policy year; or
- 3) Use the refunds for “plan enhancements” (which must benefit plan participants).

PLEASE NOTE: If your current SPD documents were generated by BRSi using Wrap360 software, there is no language in your documents that require you to distribute refunds in a specific way. You may choose to distribute refunds using any of the 3 options mentioned above. If BRSi does not handle your SPD documents, we recommend that you consult with your legal counsel to review the language in your documents.

Employers Temporarily Covering the Cost of Employee Contributions

If you have been temporarily covering the cost of employee contributions during the COVID-19 outbreak, it is likely you will not be required to distribute any refunds to plan participants. If the cost of covering employee contributions meets or exceeds the amount the employee would receive in a refund—you will not be required to distribute the refund because the DOL requires that you follow “ordinary notions of property rights”. So, a plan participant would not be entitled to a refund if he/she had not been paying the cost of the premium.

Distributing Refunds to COBRA Participants

It is important to note that the **DOL has not explicitly stated** that current COBRA participants must receive premium refunds. As a result, **BRSi will not be providing any current COBRA participants with refunds.** If you decide to distribute refunds to current COBRA participants, we encourage you to consult with your legal counsel to determine the best way to distribute refunds.

If you have any additional questions or concerns please contact me at adillingham@benefitreview.com

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Benefit Review Services, Inc.

43370 Mound Road
Sterling Heights, MI 48314
586.997.1700
www.brsibenefits.com

816 9th Street SW
Vero Beach, FL 32962
772.257.5439



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