



STATUTORY INSTRUMENTS.

S.I. No. 70 of 2013



HEALTH INSURANCE ACT 1994 (RISK EQUALISATION SCHEME)
REGULATIONS 2013

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I, JAMES REILLY, Minister for Health, in exercise of the powers conferred on me by section 11F (inserted by section 15 of the Health Insurance (Amendment) Act 2012 (No. 45 of 2012)) of the Health Insurance Act 1994 (No. 16 of 1994), hereby make the following Regulations:

Citation and commencement

1. (1) These Regulations may be cited as the Health Insurance Act 1994 (Risk Equalisation Scheme) Regulations 2013.

(2) These Regulations shall come into operation on 1 March 2013.

Definitions

2. In these Regulations—

“Act of 2012” means the Health Insurance (Amendment) Act 2012 (No. 45 of 2012);

“annual RES claim” means a claim referred to in section 11C(2) (inserted by section 15 of the Act of 2012) of the Principal Act made in respect of a year;

“annual RES return” means the annual RES return referred to in Regulation 5(2);

“authorised person”, in relation to an undertaking, means a person named in a notice referred to in Regulation 3(1), being a notice that is for the time being in force, as a person who may make a RES claim or annual RES return on the undertaking’s behalf;

“claimed RES amount”, in relation to a RES claim, means the amount that is the subject of the RES claim;

“interim RES claim” means a claim referred to in section 11C(2) (inserted by section 15 of the Act of 2012) of the Principal Act made in respect of—

(a) the period from 1 January 2013 to 30 March 2013,

(b) the period from 31 March 2013 to 30 April 2013, and

(c) thereafter, any calendar month;

“Principal Act” means the Health Insurance Act 1994;

“RES” means the Risk Equalisation Scheme;

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 1st March, 2013.*

“RES claim” means an interim RES claim or an annual RES claim;

“specified form”, in relation to a document, means the form of the document specified under section 11G (inserted by section 15 of the Act of 2012) of the Principal Act;

“undertaking” means an undertaking to which the RES applies by virtue of section 11B (inserted by section 15 of the Act of 2012) of the Principal Act.

Notice to Authority of persons authorised by undertaking to make RES claims and annual RES returns

3. (1) Subject to paragraph (2), an undertaking shall, before making its first RES claim, and thereafter at such times as it considers appropriate, give notice in the specified form to the Authority of the names and posts (being posts which fall within the classes of posts specified in the form for the purposes of this paragraph) held by the persons who are authorised by the undertaking to make RES claims and annual RES returns on its behalf.

(2) The notice referred to in paragraph (1) shall—

(a) require the signatures of the persons referred to in that paragraph to be set out in the notice, and

(b) be completed and signed by—

(i) in the case of an undertaking which is a body corporate, the secretary of the undertaking, and

(ii) in the case of any other undertaking, the person who is, or performs the duties of, the secretary of the undertaking.

(3) A reference in these Regulations to a RES claim or annual RES return made by an undertaking (howsoever expressed) shall be construed to mean a RES claim or annual RES return, as the case may be, made by an authorised person on behalf of the undertaking.

Interim RES claims

4. (1) The Authority shall establish procedures with undertakings in relation to the making of interim RES claims.

(2) Without prejudice to the generality of paragraph (1), the procedures referred to in that paragraph shall govern the method by which an interim RES claim made by an undertaking is satisfied, including the crediting by the Authority of a bank account within the State nominated by the undertaking for that purpose.

(3) An interim RES claim made by an undertaking shall be—

(a) in the specified form,

- (b) in respect of the period from 1 January 2013 to 30 March 2013, made not earlier than 31 March 2013 and not later than 21 April 2013, and
- (c) in respect of any subsequent period, made not earlier than the first day of the month immediately following the period to which the RES claim relates and not later than the 21st day of that month.

(4) Subject to paragraph (6), where the Authority receives an interim RES claim from an undertaking and is satisfied that the amount of the risk equalisation credits properly due to the undertaking, for the period to which the interim RES claim relates, covers the claimed RES amount, it shall pay from the Fund the claimed RES amount to the undertaking.

(5) Subject to paragraph (6), where the Authority receives an interim RES claim from an undertaking and is not satisfied that the amount of the risk equalisation credits properly due to the undertaking (“the due amount”), for the period to which the interim RES claim relates, covers the claimed RES amount, it shall only pay from the Fund the due amount to the undertaking.

(6) Neither paragraph (4) nor (5) shall be construed to prevent the Authority from making adjustments to its payments from the Fund to an undertaking in respect of the undertaking’s interim RES claims to take account of any monthly excess or shortfall.

Annual RES claims and annual RES returns

5. (1) An undertaking shall make an annual RES claim to the Authority—
 - (a) in the specified form, and
 - (b) not later than 2 months after the year to which the annual RES claim relates.
- (2) An undertaking shall make an annual RES return to the Authority—
 - (a) in the specified form, and
 - (b) not later than 4 months after the year to which the annual RES return relates.
- (3) (a) Where the aggregate of the claimed RES amounts paid by the Authority from the Fund to an undertaking in respect of the interim RES claims made by the undertaking for a year exceeds the amount recoverable from the Fund shown on the undertaking’s annual RES claim for that year, the undertaking shall repay the amount of the excess into the Fund with that annual RES claim.
- (b) Where the aggregate of the claimed RES amounts paid by the Authority from the Fund to an undertaking in respect of the interim RES claims made by the undertaking for a year is less than the amount recoverable from the Fund shown on the undertaking’s annual RES claim for that year, the Authority shall pay, from the Fund and to the

undertaking, that amount that the Authority is satisfied is so payable in respect of the shortfall.

(4) Where an undertaking fails to make an annual RES claim or annual RES return within the time limits prescribed by this Regulation, the Authority may refuse to pay any claimed RES amounts in respect of interim RES claims made by the undertaking after such failure until such time as the Authority receives that annual RES claim or annual RES return, as the case may be.

(5) Where an annual RES claim or annual RES return has been made to the Authority by an undertaking and the undertaking subsequently discovers that an error has been made in the annual RES claim or annual RES return, or both, the undertaking shall

- (a) make a supplementary annual RES claim in the specified form to the Authority or supplementary annual RES return in the specified form to the Authority, or both, as the case may require, not later than 2 months after discovering the error (and paragraph (3) shall, with all necessary modifications, apply to the supplementary annual RES claim or supplementary annual RES return, or both, as the case may be, as that paragraph applies to the supplementary annual RES claim or supplementary annual RES return, or both, as the case may be), and
- (b) at the same time, submit to the Authority a report in writing setting out—
 - (i) the reasons why the error occurred, and
 - (ii) the steps that the undertaking has taken, or will take, to prevent a recurrence of that kind of error or any similar kind of error.

Provision of information to Authority

6. (1) The Authority may, by notice in writing given to an undertaking, require the undertaking to furnish, within such period as is specified in the notice, such information about a relevant contract provided by the undertaking as may reasonably be required by the Authority for the purposes of these Regulations.

(2) An undertaking given a notice referred to in paragraph (1) shall comply with the requirements of the notice.

Validity of RES claims

7. (1) The Authority shall be entitled, in respect of a RES claim, to make all such enquiries as it considers necessary to establish whether the RES claim is or was properly due.

(2) An undertaking shall—

- (a) keep sufficient records to enable the requirements of these Regulations to be satisfied,

- (b) make those records available for inspection within the State by an authorised officer,
- (c) for the purposes of any such inspection, retain those records for a period of not less than 6 years from the date on which they were created, and
- (d) furnish such information about a RES claim made by the undertaking as may reasonably be required by the Authority.



GIVEN under my Official Seal,
28 February 2013.

JAMES REILLY,
Minister for Health.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

The Health Insurance (Amendment) Act, 2012 introduced a permanent Risk Equalisation Scheme (RES) in the private health insurance market, with effect from 1 January, 2013. Risk equalisation is a process that aims to neutralise, in an equitable manner, differences in health insurers costs that arise due to variations in the health status of their members.

The Act provides for the payment of risk equalisation credits in respect of private health insurance premiums paid under contracts renewed or entered into on or after 1 January 2013. These credits are payable from a new Risk Equalisation Fund administered by the Health Insurance Authority and are paid to registered undertakings in respect of:-

- the payment of private health insurance premiums by insured persons aged 50 years and over, based on age, gender and type of insurance cover
- €75 payment per night for each hospital stay involving an overnight stay in a hospital bed in private hospital accommodation (including designated private hospital accommodation in a public hospital).

These Regulations set out the structures for submitting annual claims and returns by registered undertakings and the validation of those claims by the Health Insurance Authority. The regulations also allow for interim claims to be made by authorised registered undertakings (normally monthly).

In addition, the regulations require registered undertakings to keep sufficient records and make them available to the Health Insurance Authority, to allow them to validate claims.

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