



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kay Winer
Jennifer A. Maguire

**SUBJECT: EARLY RETIREE REINSURANCE
PROGRAM**

DATE: June 3, 2011

Approved

Date

6/8/11

RECOMMENDATION

1. Approval of a resolution authorizing the City Manager to accept funds from the U.S. Department of Health and Human Services (HHS) in the amount of \$1,276,177 for the Early Retiree Reinsurance Program (ERRP) in the 2010-2011 fiscal year.
2. Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Benefit Fund (Fund 160) for 2011-2012:
 - a. Increase the estimate for Beginning Fund Balance in the amount of \$1,276,177;
 - b. Establish an earmarked reserve for Early Retiree Reinsurance Program (ERRP) in the amount of \$1,276,177.

OUTCOME

The ERRP program is intended to help employers maintain early retiree health care programs as part of federal Health Care Reform.

BACKGROUND

The ERRP program was authorized in the Patient Protection and Affordable Care Act (PPACA) and is administered by HHS. The ERRP went into effect June 1, 2010 and will end on January 1, 2014 or whenever the \$5 billion allocated for federal funding of this program is expended.

Plan sponsors (the City) who apply and are approved by HHS for the ERRP can receive reimbursement of up to 80% of the costs of medical plan claims between \$15,000 and \$90,000 which are incurred on or after June 1, 2010 for "early retirees." The term "early retiree" refers to retirees who are under the age of 65.

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In order to be approved by HHS to participate in the ERRP, an employer must meet the following requirements:

- Include programs and procedures that have generated or have the potential to generate cost saving for plan participants with claims for chronic and high cost conditions (i.e., conditions for which \$15,000 or more in applicable claims are likely to be incurred during a plan year).
- Have a written agreement in place with its health insurance issuer or plan regarding disclosure of information, data, documents and records to HHS, and have required disclosures made to HHS.
- Ensure that policies and procedures are in place to protect against fraud, waste and abuse under the plan, and comply with requests from HHS for documentation of these programs and their effectiveness.
- Be certified by the Secretary of HHS, which is obtained through the submission of an application.

The ERRP also provides specific limitations regarding how the employer can use the funds that are reimbursed to them through the program. The funds cannot be used as general revenue to the employer because ERRP is intended to deter employers from discontinuing coverage for early retirees in anticipation of the "insurance exchanges" that will be implemented in 2014.

If a plan sponsor uses the ERRP funds to offset increases in its own health benefit premiums or costs, the ERRP regulations require that the sponsor maintain its level of contribution to the plan. This is commonly called the "maintenance of effort" or MOE requirement. Having the ability to satisfy the MOE requirement on a per capita basis is beneficial to employers when enrollment in a plan has dropped due to reductions in force or divestitures. If a plan sponsor chooses to use some or all of its ERRP proceeds to reduce plan participant costs (e.g., contributions, copayments, deductibles, etc.), it must do so for all plan participants, and not just early retirees.

The City was able to meet the requirements of the ERRP and submitted applications to HHS for both the Blue Shield of California and Kaiser Permanente medical plans.

On December 30, 2010, Staff was notified that the City's ERRP applications were approved by HHS. Therefore, Staff began working with Blue Shield and Kaiser to begin the process of submitting claims documentation to HHS, by which HHS would determine the reimbursement amount due to the City. The ERRP requires that the medical insurance providers operate as the administrators for this program.

Based upon that effort, it was determined by HHS that the City was eligible to be reimbursed an amount of \$1,276,177 for the claims submitted by Blue Shield for the 2010 calendar year. This amount was received by the City from HHS on April 15, 2011. It is anticipated that additional ERRP funds may be received from HHS, based on claims submittals by Kaiser and Blue Shield.

ANALYSIS

The Administration applied for these funds in efforts to offset expenditures associated with providing healthcare benefits for plan participants. Funds were anticipated to be used for reimbursement of healthcare expenditures such as co-payments, co-insurance, deductibles, and or premiums for plan participants.

As this new Early Retiree Reinsurance Program continues to evolve, HHS has revised its guidance and application terms since the City submitted its application last summer. Because these changes might provide greater flexibility in how the City chooses to use ERRP funds within the parameters of the program, the City's benefits consultant has recommended that City expend the funds after potential alternatives can be explored. Therefore, staff is recommending that the \$1.28 million be accepted by the City Council and placed in an earmarked reserve until further analysis on the potential use of these funds is completed. The Administration continues to work with the City's benefits consultants and HHS to clarify the understanding of how the City may use the ERRP funds provided and it is anticipated that a recommendation for use of these funds will be brought back for City Council consideration in late fall 2011.

EVALUATION AND FOLLOW-UP

Staff anticipates returning to the City Council with a recommendation for use of the funds in the fall.

PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Presentations were made regarding the ERRP to the Benefits Review Forum.

This memorandum is posted on the City's website for the June 21, 2011 Council Agenda.

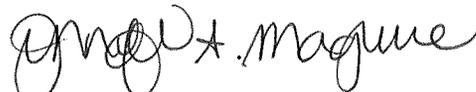
COORDINATION

This memorandum has been coordinated with the Office of the City Attorney and Department of Retirement Services.

CEQA

Not a project, File No. PP10-068 (a).

/s/
KAY WINER
Acting Director, Human Resources


JENNIFER A. MAGUIRE
Budget Director

I hereby certify that there will be available for appropriation in the Benefit Fund in the Fiscal Year 2011-2012 monies in excess of those heretofore appropriated there from, said excess being at least \$1,276,177.


JENNIFER A. MAGUIRE
Budget Director

For questions please contact Jeanne Groen, Benefits Manager at (408) 975-1428.