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# THE COMMITTEE ON ENERGY AND COMMERCE

## INTERNAL MEMORANDUM

### MEMORANDUM

March 23, 2011

To: Energy and Commerce Committee Members

Fr: Subcommittee on Oversight and Investigations Majority Staff

Re: Impending Exhaustion of Funding for Early Retiree Reinsurance Program

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The Early Retiree Reinsurance Program (ERRP), a \$5 billion fund hailed as one of the key early benefits of the Patient Protection and Affordable Care Act (PPACA), will exhaust its resources long before the planned sunset on January 1, 2014, according to information provided by the Center for Consumer Information and Insurance Oversight (CCIIO). Recent figures show that CCIIO has approved over 5,000 entities to participate in the program. In 2010, however, CCIIO doled out \$535 million to just 253 of those entities. Based on those spending patterns, the fund will exhaust its resources much sooner than originally estimated, with the majority of that money going to state and local governments. If the fund runs out of money, it is highly unlikely that the remaining beneficiaries, including unions and large corporations, would be able to obtain Congressional approval or public support for assistance on an individual basis.

This memorandum summarizes information the Subcommittee on Oversight and Investigations Majority staff has gathered about the program.<sup>1</sup>

### **Overview of the Early Retiree Reinsurance Program**

The ERRP was established by Section 1102 of the PPACA. The PPACA created two programs to act as a bridge to the new health insurance exchanges that would begin in 2014: the temporary high-risk pools for individuals with pre-existing conditions and the ERRP. The PPACA appropriates \$5 billion to each of these programs, for a total of \$10 billion. Richard Popper, Director of the Office of Insurance Programs at CCIIO, informed Committee staff that the ERRP was intended to address trends that have led employers to reduce or eliminate health benefits for early retirees.

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<sup>1</sup> The information contained in this report was obtained at a staff briefing on March 3, 2011, from the report issued by CCIIO on March 2 (“[Implementation and Operation of the Early Retiree Reinsurance Program During Calendar Year 2010.](#)”), and through additional information gathered from representatives from the Centers for Medicare and Medicaid Services.

Employers and unions that provide an employment-based group health plan to early retirees, their spouses or dependents are eligible to participate in the ERRP. To participate in the program, employers and unions must have an approved application, be able to document health claims, implement procedures that have the potential to generate plan savings, and have policies in place to detect and reduce fraud or waste. The ERRP reimburses the employer 80 percent of the actual cost of an early retiree's health expenses between \$15,000 and \$90,000.<sup>2</sup> These reimbursements may be used to reduce a sponsor's health benefit costs or premiums, plan participants' premiums, co-payments, deductibles, co-insurance, or other out-of-pocket health benefit costs, or a combination thereof. Reimbursements may not be used for general revenue. The ERRP reimburses for qualified claims beginning on or after June 1, 2010.

### **Majority Committee Staff Findings**

- CCIIO estimates ERRP will exhaust its funds in 2012, far sooner than expected.

In 2010 the ERRP paid out \$535 million in reimbursements to 253 plan sponsors, while approving a total of 5,452 applications to participate in the program. Richard Popper informed Committee staff that the program will exhaust its resources in 2012, yet Majority Committee staff believes that the program could exhaust its resources even sooner.

In the seven months that the ERRP was reimbursing claims in 2010, 5% of the program's enrollees managed to spend 10% of the available funding. If the remaining 5,199 applicants require a similar level of reimbursement, the program will quickly spend all available funding as early as this year. In order for the program to avoid exhausting resources, the remaining 5,199 sponsors would have to request, on average, no more than 40% of the reimbursement level doled out to the 253 sponsors reimbursed in 2010.

- The ERRP acts as another bailout of state and local governments.

Over one-third of the \$535 million spent by the ERRP in 2010 was spent on five government entities. Fifty-six percent of the ERRP funding spent in 2010 (\$298 million) went to government organizations. Of that amount well over half was sent to the following five government entities:

- California Public Employees' Retirement System: \$57,834,267
- State of New Jersey Treasury Department, Pension Accounting Services: \$38,622,698
- Georgia Department of Community Health, State Health Benefit Plan: \$34,916,832
- Commonwealth of Kentucky: \$29,666,516
- Employees Retirement System of Texas: \$20,982,299
  
- Total: \$182,022,612

The remaining \$116 million was spent on additional state governments and a variety of cities, counties and other government entities. According to CCIIO, 47 percent of the 5,452 approved plan sponsors are government organizations. Because of the rate at which government entities

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<sup>2</sup> Medical, surgical, hospital, and prescription drug benefits qualify for reimbursement. According to CCIIO's report reimbursement for services related to routine vision, dental, or custodial care are generally excluded.

collected reimbursements from the ERRP in 2010, and the fact that CCIIO has stated there are over 2,000 government entities approved to collect reimbursements in 2011, it is likely the majority of ERRP funding will be spent on these groups. Neither the ERRP nor the PPACA was intended as a de facto bailout for state and local governments.

- The ERRP is an inefficient and inappropriate use of funding.

Majority Committee staff has learned that funds the ERRP will not spend on government entities will go to companies that do not appear to need the financial assistance of the federal government. Information obtained by Majority Committee staff indicates that Fortune 500 companies with billions of dollars in revenue and Hollywood unions are among those taking advantage of the taxpayer money being provided by the ERRP. Subsidizing these groups may not be the most efficient or appropriate use of taxpayer money, especially considering that the ERRP was given the same amount of funding as the high-risk pool program for individuals with pre-existing conditions.

We have attached the full list of sponsors that received ERRP funding in 2010.

### **Conclusion**

The ERRP will exhaust its funding long before the intended program end date January 1, 2014. The majority of the funding in 2010 went to state and local governments. Based on enrollment trends this pattern will continue. Finally, among the entities receiving funding are a number of large corporations that do not need the assistance of the federal government, and other entities that would not receive public support for assistance on an individual basis.

## 2010 ERRP Program Disbursements by State and Plan Sponsor

PS Name	PS State
1199SEIU Natl Benefit Fund For Health and Human Service Employees	NY
Advantage Health Plans Trust	OK
Aerospace Contractors' Trust	TN
Aetna Inc.	CT
Airconditioning & Refrigeration Industry Health & Welfare Trust	CA
Alaska Electrical Health and Welfare Fund	AK
Albany International Corp.	NY
Alcatel-Lucent USA Inc.	GA
Alcoa Inc.	PA
Alhambra Unified School District	CA
Alon USA, LP	TX
American Fed. of State, County and Municipal Employees (Council 31)	IL
American Federation of State, County and Municipal Employees AFLCIO	DC
Ameriprise Financial, Inc.	MN
Annandale Public School	MN
Arch Coal, Inc.	MO
Arkansas State Police	AR
Asbestos Workers Union Local 42 Welfare Fund	MD
Assistant Superinten	NY
Automatic Data Processing, Inc.	NJ
Avon Products, Inc	NY
Barnes Group Inc.	CT
BCBSM, Inc. (dba: Blue Cross and Blue Shield of MN	MN
Blue Cross & Blue Shield of Mississippi, A Mutual	MS
Blue Cross Blue Shield of Michigan	MI
Board of Trustees of Local 295/851 Employer Group Welfare Fund	NY
Board of Trustees of the Employers and Operating Engineers Local 520 Health and Welfare Fund	IL
Boilermakers National Health and Welfare Fund	KS

Boy Scouts of America	TX
Brittany Dyeing & Printing Corp.	MA
C&O Employees Hospital Association	VA
Cahill Gordon & Reindel LLP	NY
California Correctional Peace Officers Association Benefit Trust	CA
California Physicians' Service	CA
California Public Employees' Retirement System (CalPERS or PERS)	CA
Carpenters' District Council of Kansas City and Vi	MO
Central Pennsylvania Teamsters Health and Welfare	PA
City of Anaheim	CA
City of Ann Arbor	MI
City of Aurora	IL
City of Bloomington, MN	MN
City of Blue Island	IL
City of Des Moines	IA
City of Garland, Texas	TX
City of Grapevine	TX
City of Hollywood, Florida	FL
City of Mankato	MN
City of Marysville	MI
City of Mound	MN
CITY OF NAPLES	FL
City of Saginaw	MI
City of Saint Paul Finance-Accounting	MN
City of Springfield MO	MO
City of Warren	MI
City of Wauwatosa	WI
City of Winter Haven, FL	FL
Cleveland Clinic Foundation	OH

Commonwealth of Kentucky	KY
Consolidated Communications Holdings, Inc.	IL
Construction Industry and Laborers Health and Welfare Plan	MN
COUNTY OF BLUE EARTH	MN
County of Huron	MI
County of Onondaga	NY
County of Orange	CA
County of Outagamie	WI
County of Ramsey	MN
Courage Center	MN
Cox Enterprises, Inc.	GA
Crowley Holdings, Inc	FL
CSD Insurance TR	MO
Dakota County, Minnesota	MN
Danville School Board	VA
Deere & Company	IL
Delphi Salaried Retiree Association Benefit Trust	MI
Department of Finance and Administration	MS
Directors Guild of America-Producer Health Plan	CA
District Council #3 Painters and Allied Trades Welfare Fund	MO
DRESSER INC	TX
DTE Energy Company	MI
Duke Energy Corporation	NC
Eastman Chemical Company	TN
Ector County Hospital District (dba Medical Center Hospital)	TX
Emerson Electric Co.	MO
Employee Trustee	OR
Employees Retirement System of Texas (ERS)	TX
Employer-Teamsters Local Nos. 175 & 505 Health & W	WV

Excellus Health Plan, Inc	NY
Foster Wheeler Inc.	NJ
Freeport-McMoRan Copper & Gold Inc. ("Freeport-McMo	AZ
FRESNO UNIFIED SCHOOL DISTRICT	CA
GCC-IBT LOCAL 1-M HEALTH AND WELFARE FUND	MN
GCIU Local 119B, NY-Printers League Welfare Trust	NY
GEA NORTH AMERICA, INC.	MD
General Electric Company	CT
Georgia Department of Community Health	GA
GlaxoSmithKline LLC	PA
Glenbard Twp. High School District 87	IL
Gold Coast Joint Benefits Trust	CA
Graphic Communications Local #1 B Health & Welfare	MN
Great River Energy	MN
GuideStone Financial Resources of the Southern Bapt	TX
Haldex Hydraulics Corporation	IL
Hallmark Cards, Incorporated	MO
Harris County	TX
Heartland Healthcare Fund	MN
Hennepin County	MN
Houghton Mifflin Harcourt Publishing Company	MA
IBEW Local 102 Welfare Fund	NJ
IBEW Local Union #347 Health and Welfare Plan	IA
IBEW Local Union No. 22/NECA Health & Welfare Fund	NE
Independent School District 273, Edina Public Scho	MN
Independent School District 885	MN
Independent School District No 15	MN
Independent School District No. 623	MN
Indian Electric Cooperative, Inc.	OK

International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmith	KS
International Brotherhood of Electrical Workers 17 Welfare Fund	MI
International Flavors & Fragrances Inc.	NY
International Matex Tank Terminals	LA
ISD #834 Stillwater Area Public Schools	MN
Johnson & Johnson	NJ
Joint Welfare Fund Local 164	NJ
Kimberly Area School District	WI
Kingston Trust Fund	NY
Knoxville Utilities Board	TN
Liberty Mutual Group Inc	MA
Louisiana Electrical Heath and Welfare Fund	TN
Louisiana Laborers Health and Welfare Fund	TN
MAHLE Industries, Incorporated	TN
Marathon Oil Company	OH
Mars Incorporated	NJ
Masonry Security Plan	WA
McNaughton-McKay Electric Company	MI
Metropolitan Council	MN
Metropolitan Utilities District of Omaha	NE
Michigan Regional Council of Carpenters Employee Benefit Fund	MI
Midwest Operating Engineers Welfare Fund	IL
Millennium America Holdings Inc.	TX
Minnesota Teamsters Health & Welfare Plan	MN
Minnewaska Area Schools #	MN
Misc Drivers & Helpers Union Local #638 Health, Welfare, Eye & Dental	MN
Missouri Consolidated Health Care Plan	MO
Mohawk Carpet Corporation	GA
Mower County Government	MN

NACCO Materials Handling Group, Inc.	NC
National Rural Electric Cooperative Association	VA
Na'tl Council of Young Men's Christian Associations of the USA	IL
New Jersey Carpenters Funds	NJ
New Orleans Electrical Health Plan	TN
NGM Insurance Company	FL
Noble Corporation	TX
North Central States Regional Council of Carpenters' Health Fund	WI
Northrop Grumman Corporation	CA
Northwest Metal Crafts	WA
Northwest Sheet Metal Workers Welfare Fund	WA
Oakland County Employees Retirement	MI
OCI Chemical Corporation	GA
Oklahoma Conference of the United Methodist Church	OK
Oklahoma Electric Cooperative	OK
Operating Engineers Local 474 Health and Welfare Fund	TN
Park Rapids Schools ISD 309	MN
Pilkington North America, Inc.	OH
Pipe Fitters' Welfare Fund, Local 597	IL
Pittsburgh Public Schools	PA
Plasterers & Cabinet Makers Health Fund	MN
Plumbers & Pipefitters Local 502 Health and Welfare Plan	KY
Plumbers & Steamfitters Local 33 Health & Welfare Fund	IA
PLUMBERS' & PIPEFITTERS WELFARE EDUCATIONAL FUND	MO
PPSTA Trust Fund	NY
Putnam Investments, LLC	MA
Putnam/Northern Westchester Health Benefits Consortium	NY
Raley's	CA
Roofers Local #96 Health and Welfare Fund	MN

Sandvik, Inc.	NJ
Sara Lee Corporation	IL
School Risk & Insurance Management Group	CA
Screen Actors Guild-Producers Health Plan	CA
Sheet Metal #10 Benefit Fund	MN
Sheet Metal Workers' Health Plan	TN
Sheet Metal Workers' Local 73 Welfare Fund	IL
Sheet Metal Workers Welfare Fund #85	GA
Siemens Corporation	NJ
Sierra Pacific Industries	CA
Southern Company Services, Inc	GA
Southern Operators Health Fund	TN
State and Education Employees Group Insurance Board	OK
State of Arizona	AZ
State of Ark., Dept. of Finance and Admin., Employ	AR
State of Louisiana, Division of Administration, Office of Group Benefits	LA
State of Michigan	MI
State of Michigan Public School Employees Retirement System	MI
State of New Jersey Treasury Dept - Pension Accounting Services	NJ
STRATTEC SECURITY CORPORATION	WI
Syngenta Crop Protection, Inc.	NC
TAC HEEIP	TX
Teacher Retirement System of Texas	TX
Teamsters 206 Employers Trust	OR
Teamsters Retiree Trust	CA
The Boeing Company	IL
The City of Grand Rapids	MI
The ISD622 Education Center	MN
The Jewish Federation of Metropolitan Chicago	IL

The Ohio Police and Fire Pension Fund	OH
THE REGENCE GROUP	OR
The South Jefferson Central School District Group	NY
The Toro Company	MN
The University of Iowa	IA
The Western and Southern Life Insurance Company	OH
Thomson Reuters Holdings	NY
Township High School District 113	IL
Trustees of Carpenters' Health and Welfare Trust Fund of St. Louis	MO
Trustees of the Central States, SE & SW Areas H&W Fund	IL
Twin City Iron Workers Health & Welfare Fund	MN
U.S. Bank, NA	MN
UAW Retiree Medical Benefits Trust	MI
United Mine Workers of America 1993 Benefit Plan	DC
University of New Mexico	NM
University of Texas at Austin, Office of Acctg.	TX
UPM-Kymmene, Inc.	IL
Village of Alsip	IL
Village of Rosemont	IL
Vinson & Elkins LLP	TX
Wake Forest University Health Sciences	NC
Washington County	MN
Washtenaw County	MI
Writers' Guild-Industry Health Fund	CA
Ypsilanti Community Utilities Authority	MI
Zeon Chemicals L.P.	KY