

## § 158.241

for a given MLR reporting year to enrollees in any form specified in § 158.241 prior to the rebate payment deadlines set forth in §§ 158.240(e) and 158.241(a)(2) and in advance of submitting the MLR report required in § 158.110 to the Secretary. Issuers that choose to prepay a portion or all of their rebates must do so for all eligible enrollees in a given state and market in a non-discriminatory manner, and consistently with State law or other applicable state authority. If, after submitting the MLR report required in § 158.110, an issuer determines that its rebate prepayment amount in a given state and market is at least 95 percent, but less than 100 percent, of the total rebate amount owed for the applicable MLR reporting year to enrollees in that state and market, the issuer may, without penalty or late payment interest under paragraph (f) of this section, provide the remaining rebate amount to those enrollees no later than the rebate deadlines in §§ 158.240(e) and 158.241(a)(2) applicable to the following MLR reporting year. If the total rebate owed to an enrollee for the MLR reporting year is above the *de minimis* threshold established in § 158.243(a), the issuer cannot treat the remaining rebate owed to an enrollee after prepayment as *de minimis*, even if the remaining rebate is below the *de minimis* threshold.

[75 FR 74921, Dec. 1, 2010, as amended at 78 FR 15540, Mar. 11, 2013; 79 FR 13842, Mar. 11, 2014; 81 FR 94183, Dec. 22, 2016; 86 FR 24294, May 5, 2021]

### § 158.241 Form of rebate.

(a) *Current enrollees.* (1) An issuer may choose to provide any rebates owing to current enrollees in the form of a premium credit, lump-sum check, or, if an enrollee paid the premium using a credit card or direct debit, by lump-sum reimbursement to the account used to pay the premium.

(2) For each of the 2011, 2012, and 2013 MLR reporting years, any rebate provided in the form of a premium credit must be provided by applying the full amount due to the first month's premium that is due on or after August 1 following the MLR reporting year. If the amount of the rebate exceeds the premium due for August, then any overage shall be applied to succeeding

## 45 CFR Subtitle A (10–1–23 Edition)

premium payments until the full amount of the rebate has been credited. Beginning with the 2014 MLR reporting year, any rebate provided in the form of a premium credit must be provided by applying the full amount due to the first month's premium that is due on or after September 30 following the MLR reporting year. If the amount of the rebate exceeds the premium due for October, then any overage shall be applied to succeeding premium payments until the full amount of the rebate has been credited. Beginning with rebates due for the 2020 MLR reporting year, any rebate provided in the form of a premium credit must be provided by applying the full amount due to the monthly premium that is due no later than October 30 following the MLR reporting year. If the amount of the rebate exceeds the monthly premium, then any overage shall be applied to succeeding premium payments until the full amount of the rebate has been credited.

(b) *Former enrollees in the individual market.* Rebates owing to former enrollees in the individual market must be paid in the form of lump-sum check or lump-sum reimbursement using the same method that was used for payment, such as credit card or direct debit.

[75 FR 74921, Dec. 1, 2010, as amended at 76 FR 76593, Dec. 7, 2011; 78 FR 15540, Mar. 11, 2013; 86 FR 24295, May 5, 2021]

### § 158.242 Recipients of rebates.

(a) *Individual market.* An issuer must meet its obligation to provide any rebate due to an enrollee in the individual market by providing it to the enrollee. For individual policies that cover more than one person, one lump-sum rebate may be provided to the subscriber on behalf of all enrollees covered by the policy.

(b) *Large group and small group markets.* Except as provided in paragraphs (b)(3) and (4) of this section, an issuer must meet its obligation to provide any rebate to persons covered under a group health plan by providing it to the policyholder.

(1) In the case of a policyholder that is a non-Federal governmental group health plan, the policyholder must use