HARRP NOTES

- ☐ Executive Director
- ☐ Accounting / Finance
- ☐ Contract Administration
- ☐ Maintenance
- ☐ Property Management
- ☐ Personnel
- ☐ Safety Program Coordinator

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MEDICARE REPORTING REQUIREMENTS

HARRP became aware of the new proposed reporting requirements of the Medicare, Medicaid and SCHIP Act of 2007 (MMSEA) in March, as reported in the NAHRO article dated March 30, 2009. One thing is clear, the Centers for Medicare and Medicaid Services (CMS) have not finalized the details, but reporting appears imminent.

It appears that HARRP will be required to report all liability settlement and judgments paid/awarded to claimants that currently qualify for Medicare or Medicaid. However, we do not believe HARRP will need to report on a quarterly basis, only at the time of actual settlement. Since HARRP does not provide workers' compensation insurance or "no-fault" coverage, we will only be required to report on a one-time basis at the time of any liability settlement. This is our initial conclusion, this opinion is subject to change after the HHS and CMS finalize the reporting requirements.

All housing authorities should consult with their legal counsel to determine any individual reporting requirements under the new mandatory reporting regulations. It is our opinion that housing authorities will fall under the definition of "Responsible Reporting Entity" (RRE) under the new MMSEA reporting requirements for payments made under group health plan (GHP) arrangements as well as Non Group Health Plans (NGHP) such as: liability insurance (including self-insurance) payments, no-fault insurance, workers' compensation, disability payments. The requirement would also include any payments made under your liability or errors or omissions deductibles made on your agency's behalf to persons who receive, or qualify for Medicare or Medicaid. This is especially true if your agency has a substantial SIR (self-insured retention) for any of these exposures.

HARRP has registered with CMS, in accordance with published deadlines and designees. From the research we have done to this point, each and every self-insured entity should review the registering requirements which are available on line at: http://www.cms.hhs.gov/MandatoryInsRep/Downloads/GHPComplianceDoc.pdf.

Since each housing authority may have different exposures than HARRP (i.e. GHP's, workers' compensation, disability wage loss, etc.), it is important that each of our members consult with their legal counsel to determine what registration and reporting requirements they may have. We will advise you as more information becomes available.

OUR FIRST FORMER TAX CREDIT COVERED BY HARRP

The day has finally arrived when a former tax credit was converted to government owned property. It is HARRP's first. Central Oregon Housing Authority, dba Housing Works, informed us that the Housing Authority is purchasing Stoneybrook Apartments from its former tax credit partners for $1.

This is the first tax credit property that a HARRP member has converted back to fully government owned housing and became eligible for HARRP's inexpensive and broad insurance coverages.

As your partner's tax credit eligibility period ceases and the property reverts to a fully owned housing authority location, HARRP can provide coverage for that property. This would include properties financed through Freddie Mac, Project Based, Section 8 or bonds.

If the former tax credit will be converted to another tax credit, Gil or Robin at ORWACA Insurance Agency (fully owned by HARRP) can assist with your commercial insurance needs. If it will be government owned, just complete the usual property coverage change form and submit it to HARRP.

PROPERTY MANAGEMENT CONTRACTS

As you are aware, HARRP is a public agency. We perform our functions, in many ways, as you do as a public Housing Authority. HARRP is confined as to whom we can provide coverage; simply stated, HARRP can only extend coverage to governmental entities funded by tax dollars.

Contractual requirements from private sector vendors often ask for the housing authority to indemnify them for operations conducted on behalf of the authority. While doing this would certainly simplify everyone's life, HARRP stands firm that prudent risk transfer dictates that private sector vendors be responsible for their actions, lack of actions and other risks that the housing authority has transferred to the vendor; to include legal defense of questionable claims where the vendor attempts to tender defense costs to the housing authority.

HARRP has a long history of claims where vendors have attempted to have the housing authority indemnify them for causes of action over which the Authority had no control. We encourage you to have your legal counsel review these contracts to assure that proper identification of the risks and legal responsibility of each party is clearly identified. HARRP's purple manual, Contractual Risk Transfer, is available on-line as a reference and the manual located in each housing authority administrative office is updated annually. Please assist the pool in controlling costs by assuring your Authority performs proper risk transfer techniques!

NEW POOL UPDATE!

The Affordable Housing Risk Pool (AHRP) continues to develop and promises to provide coverages long sought by HARRP members.

Designed to provide property, general liability and tenant discrimination coverage for tax-credit partnerships and non-profit housing associated with HARRP's members, AHRP has obtained the required legislative approval in the States of Washington and Oregon. The approval process allows for multi-state risk pooling for affordable housing non-profits and tax-credit partnerships. The AHRP program will be limited, at the onset, to only those non-profit and tax-credit properties affiliated with HARRP's membership in these two States. HARRP is moving forward on legislative amendments in Nevada and then California. It is expected this will be performed during the first quarter and third quarter, respectively, of 2010.

HARRP staff and legal counsel continue to address two crucial components of AHRP; reinsurance and structure. HARRP is diligently working with reinsurance markets for coverage above the self insured retention that will be maintained by AHRP. This has been a monumental task as reinsurance markets are not particularly fond of habitational risks, AHRP is a start-up risk pool and the launch of AHRP is still many months away, which makes obtaining reinsurance quotes difficult.

The structure of the governance and administrative services is the other key issue that is being dealt with. Obviously, the lower the administrative load, the better the rates. This includes taxation issues with which HARRP is also working.

It is anticipated that AHRP rates will be between HARRP rates and commercial rates. The benefit to being part of AHRP is the level of service that would be provided, the stability of the program, enhanced coverages over the commercial markets and the fact that the membership has ownership rights to the program.

It is anticipated that the pool will be operational as early as January, 2010, but more realistically June 1, 2010, due to the 120 day period allowing regulators to develop rules, which is currently underway.

Please stay tuned for further information.