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The PCORI Fee

The ACA includes a number of fees that insurers and employers are required to pay in order to help support various aspects of healthcare reform. One of those fees, the Patient-Centered Outcomes Research Institute or PCORI fee, is a relatively minor fee, but is structured in a way as to cause some confusion about who it applies to, and when it is to be paid.

The PCORI fee is paid via IRS Form 720, the Quarterly Federal Excise Tax Return. The form was recently modified to incorporate the PCORI fee, as some plans will be required to pay for it by July 31, 2013 (see Updated 2013-9 for links to the form and its instructions.) A few days after the instructions were issued, the IRS issued a related ruling, declaring the PCORI fees as a normal business expense and therefore deductible.

Effective Date

Most rules or fees laid out by the ACA are applied to an employer on either a calendar year basis, or for plan years that ***begin*** on or after a certain date. The PCORI fees are different in that they apply to plan or policy years that ***end*** after a certain date. In this case, PCORI applies to policies and plan years that end after October 1, 2012, and before October 1, 2019 – covering a total of seven full policy or plan years.

Who Is Responsible To Pay?

The entity responsible for paying the PCORI fee depends on whether the plan was fully-insured or self-funded.

Fully-Insured Plans

Insurers of health insurance policies are responsible for paying the fee on those policies. The regulations use the phrase "Specified Health Insurance Policy" to define the type of policy that's subject to the rule, which is "an arrangement under which fixed payments or premiums are received as consideration for a person's agreement to provide or arrange for the provision of accident and health coverage to individuals residing in the U.S., regardless of how such coverage is provided or arranged to be provided." Policies that cover people on COBRA, or state or federal continuation coverage, are also subject to this fee.

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Self-Funded Plans

"Applicable self-insured health plans" are defined as plans providing accident or health coverage, any portion of which is provided other than through an insurance policy, and which is established or maintained for employees or former employees by an employer, a union, or specified groups of employers (including MEWAs).

Plan sponsors of self-funded plans are liable for the fee. Plan sponsors can include:

- The employer for a single employer plan
- An employee organization, for a plan maintained by an employee organization
- The joint board of trustees for a multiemployer plan
- The committee, for a MEWA
- The cooperative or association that establishes the cooperative, for a rural cooperative
- The trustee for a VEBA

The plan sponsor is required to be defined in the Plan Documents, and employers should consult the document if there is any question as to who the plan sponsor is.

If a plan sponsor has multiple self-funded plans with the same plan year, they can be treated as a single plan for fee calculation purposes (see Counting Participants, below).

What Plans are NOT Subject to the Fee?

Excepted benefits are not subject to the PCORI fee. Excepted benefits include most health FSAs, limited-scope dental and vision plans, and other supplemental coverage. Basically, if the plan is not subject to the ACA itself, it is not subject to the fee.

Plan Sponsors should note that there are no exceptions for governmental or retiree-only plans – they ***are*** subject to the PCORI fee. Also, plan sponsors with insured plans coupled with a self-funded HRA will need to count and pay for the HRA separately from the insured plan.

What is the Fee?

For plan years that end ***before*** October 1, 2013, the fee is $1 per the average number of covered lives on the plan for the year. Plan years that end after September 30, 2013 will be assessed a $2 fee per average covered life. This fee will be increased over time, presumably for plan years beyond the September 30, 2013 date.

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Counting Participants

Both Insurers and self-funded Plan Sponsors have similar methods for counting the average number of lives covered by the plan for the reportable year. Here we outline the methods applicable to self-funded plan sponsors.

There are three ways to calculate the average number of covered lives – the Actual Count Method, the Snapshot Method, and the Form 5500 Method.

Actual Count Method

This is the most accurate method of calculating the fee but requires a very complete set of records. In this method the plan sponsor counts the number of lives covered on each day of the plan year, and divides that count by the number of days in the plan year.

Snapshot Method

Here, plan sponsors take a snapshot of each quarter of the plan year by picking a date in each quarter and looking at the number of covered lives on that date. The date chosen in each quarter must be within three days of the corresponding date in each of the other quarters (i.e. the 10th day of each quarter would be allowable.)

There are two options for counting covered lives under the snapshot method – the "snapshot count method" and the "snapshot factor method." In the snapshot count method, employers would count the number of actual covered lives on the selected date for each quarter, while under the snapshot factor method, the employer would count the number of participants with self-only coverage on the selected dates, plus the number of participants with coverage other than self-only on the selected dates multiplied by 2.35.

Once the counts for each quarter are determined, they are all added together and divided by four to determine the average number of covered lives for the year.

Form 5500 Method

Perhaps the easiest method of all is the Form 5500 Method. Here the employer uses the count of covered ***employees*** at the beginning and end of the plan year and adds them together. If the plan offers employee-only coverage, then the resulting number can be divided by two.

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HRA/FSA Special Rule

For HRAs and those FSAs that are not excepted under the ACA, plan sponsors do not need to calculate the number of dependents and spouses covered by the plan; they can just count each employee participant as one life.

FSAs that are funded solely by employee salary reduction without contributions by the employer are excepted from the ACA. This will encompass virtually all FSAs, however please contact your Assurance representative if you have any questions regarding your FSA.

Payment and Reporting of Fees

Fees are to be reported on IRS Form 720, as discussed in the introduction above. Because Form 720 is filed on a quarterly basis, the timing for actually paying the fees is somewhat confusing. The bottom line for self-funded plans is that payment is due by July 31st of the year ***following*** the ***last*** day of the policy or plan year. The following table illustrates this:

Last Day of the Plan Year	Payment Due Date
October 31, 2012	July 31, 2013
November 30, 2012	July 31, 2013
December 31, 2012	July 31, 2013
January 31, 2013	**July 31, 2014**
February 28, 2013	**July 31, 2014**
March 31, 2013	**July 31, 2014**

As can be seen, the last day of the plan year (the day before the plan renews) is the day to watch for.

Fully insured plans have a slightly different due date for the fees – it's still July 31st of each year but the calculus to determine which July 31st is slight different. Regardless, fees for insured plans are paid by insurance carriers and may be billed back to employers in different ways, so the date that the fee is due may be different than the date the carrier bills the employer for it.

How To Pay the Fee

The IRS has recently released updated instructions for Form 720, the Quarterly Federal Excise Tax Return, which is the form used to pay the PCORI Fee. These instructions (released in June but listed as the April 2013 revision) give self-funded employers the instructions needed to report and pay their applicable PCORI fees.

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The instructions reiterate that plan sponsors who don't otherwise file a form 720 are not required to file one in the 1^{st}, 3^{rd} or 4^{th} quarters of the year. Instead they only file the form in the 2^{nd} quarter to report and pay the fee.

The instructions for form 720 can be found at http://www.irs.gov/pub/irs-pdf/i720.pdf, and the form itself can be found out http://www.irs.gov/uac/Form-720,-Quarterly-Federal-Excise-Tax-Return.

Summary

In summary, the PCORI fee regulations have their fair share of details, but in the end the fee itself is very nominal. If you have any questions, please don't hesitate to contact your Assurance representative for further assistance.