# PCORI fees due next week

*July 23, 2014*

## In brief

Under the Affordable Care Act (ACA), health plans and insurance issuers must pay a fee each year for seven years to fund the Patient-Centered Outcomes Research Institute (PCORI). The fee is based on the number of individuals covered under the plan, and it is due by July 31 each year. This is the second year for which PCORI fees have been collected. The fee is paid by filing IRS Form 720 (attached Form 720 and Form 720 Instructions). The form and instructions for the 2014 filing have been revised to reflect the fact that the amount of the fee changes each year for which it is filed. Calendar year plans, as well as plans with plan years ending in October or November were required to file for the first time in July of last year and to pay a fee of $1 per covered individual. Those plans will make their second PCORI fee payment this year, at the $2 per person rate that applies for the second year's filing. Plans with plan years ending in January through September will file for the first time this year, and owe $1 per person.

***Observation***

*Because the fee is filed based on the plan year of the applicable plan and was first effective for plan years ending on and after October, 2012, it is somewhat complicated to determine which dollar amount may apply. In addition, the rules permit various methods of counting the number of individuals for whom the fee must be paid. These rules also may be complex for some plans.*

## In detail

### What is PCORI?

The Patient-Centered Outcomes Research Institute will conduct research to evaluate and compare the clinical effectiveness, risks and benefits of medical treatments, services, procedures, drugs or other items or strategies that treat, manage, diagnose or prevent illness or injury. The Institute is aimed at advancing the quality and relevance of evidence-based medicine which can be used to deliver higher quality, value-based care. Fees to fund the Institute were established under ACA to be paid by insured health plans as well as self-insured group health plans.

### Who pays the PCORI fees?

Insurers will pay and file returns with the IRS for insured health policies; employers (or other plan sponsors) will file the returns and pay the fees for self-insured plans. Third parties may not pay the fees on behalf of insurers or plan sponsors. The Department of Labor has advised that the fee does not constitute a permissible expense of the plan for purposes of Title I of ERISA. Accordingly, plan sponsors generally will not be able to pay the fees out of plan assets.

### Observation

*IRS has said PCORI fees are deductible as an ordinary and necessary business expense.*

### How much is the PCORI fee and when is it due?

For the first plan or policy year ending on or after October 1, 2012, the fee is $1 multiplied by the average number of lives

covered under the plan or policy during the year. In subsequent years, the fee increases to $2 per year multiplied by the average number of lives covered under the plan or policy during the year (the amount will be indexed to medical cost inflation for plan years ending on or after October 1, 2014). The fee is slated to end after seven years, for plan and policy years ending before October 1, 2019.

Employers and insurers will pay the fee annually by filing IRS Form 720 (Quarterly Federal Excise Tax Return) due by July 31 of the calendar year that follows the end of the plan year. Plans with plan or policy years ending in October, November or December of 2012 first filed the form on July 31, 2013, and should now be filing the form for the second year, with the $2 per enrollee rate. Plans with plan years ending at any other time must file the fee for the first year in July 2014, and will pay at the $1 per enrollee rate.

Although the Form 720 is a quarterly return required to be filed to report and pay various types of excise taxes, employers who are filing the form only to report PCORI fees will file the Form 720 for the second quarter only, and will not file the form for the other calendar quarters.

***What plans and policies are subject to PCORI fees?***

Most medical plans, including those covering only retired employees, are subject to the fees. However, stand-alone dental or vision benefits, and most health flexible spending arrangements (FSAs) are exempt, as are most employee assistance programs, disease management or wellness programs.

***Special rules for multiple plans***

Generally, any plan or policy that isn't exempt will have to pay the fee. However, under a special rule, if two or more self-insured plans cover the same individuals and have the same plan year (e.g., a medical plan and prescription drug plan), the plan sponsor won't have to pay the fee twice for individuals participating in both plans. This rule allows a plan sponsor with a self-insured medical plan and an associated health reimbursement arrangement (HRA) running on the same plan year to pay the fee without 'double counting' individuals participating in both plans. If the major medical plan is insured, however, the fee must be paid by the insurer with respect to all covered lives in the insured arrangement, and by the plan sponsor with respect to all covered lives in the HRA, thus double-counting the participants.

***How is the average number of covered lives determined?***

The PCORI fee is based on the average number of covered lives under a plan or policy during the plan year, not just the number of employees enrolled. The final regulations allow employers to choose one of three methods to count the average number of covered lives: actual count, snapshot, and Form 5500.

- Actual count method – the plan sponsor counts the number of individuals covered by the plan each day of the plan year and divides by the number of days in the plan year.

  Example 1: ABC Company, which operates its self-insured medical plan on a calendar year basis, counts the number of individuals covered under the plan as of March 31, 2013 (the last day of the first quarter), June 30, 2013, September 30, 2013 and December 31, 2013 (the last day of each of the subsequent quarters) and divides the total by 4 (the number of dates on which a count was made). This is the second year for which ABC Company has filed, so they multiply the average number of enrollees by $2 to determine the PCORI fee due July 31, 2014.

  Example 2: XYZ Company operates a self-insured medical plan with a June 30 plan year end. XYZ Company receives a report each month from its plan administrator detailing the number of employees and dependents covered by the plan as of the last day of the month. XYZ Company counts the number of covered individuals for the plan year by adding the totals for each month and dividing by 12. This is the first year for which XYZ Company is filing, so they multiply the average number of enrollees by $1 to determine the PCORI fee due July 31, 2014.

- Snapshot method – the plan sponsor counts the number of individuals covered by the plan on one or more dates during each quarter of the plan year, and divides by the number of dates on which a count was made. The dates used each quarter must be within three days of the date corresponding to the date used in the first quarter.

  A twist on the snapshot method allows an employer to use a 'snapshot factor' method. Under this method, instead of counting all individuals covered by the plan, the number of employees with self-only coverage is counted, and, for any employee with other than self-only coverage (such as employee plus spouse, or family coverage), the employer would use a factor of 2.35.

- Form 5500 method – the plan sponsor uses the plan's annual

Form 5500 filed for the plan year, as long as the form has been filed before the PCORI payment is due. For most plans, the sponsor would add the count of participants at the beginning of the year and at year end to arrive at an estimate of the average number of covered lives. For plans that offer only self-only coverage, the sponsor would add the beginning and year-end participant counts and divide by two.

### *Observation*

*Many employers will choose to use the simplest method, given the relatively small amount of the PCORI fee. Generally, the Form 5500 method may be the least complicated and, since, for plans that offer family coverage, it essentially assumes that the plan covers one dependent for every covered employee, it may result in a lower average covered lives count than the other methods. This method cannot be used, however, for plans that have not yet filed their annual report form for the year, which would include any calendar year plans utilizing the automatic extension of time to file.*

## *The takeaway*

Insurers and employers with self-insured health plans must file Form 720 to pay the PCORI fees by July 31, 2014. Any of the approved methods may be used to count covered individuals, and the amount of the fee is determined based on the date on which the plan year ends. The form itself is a relatively simple form to complete and file, and it may be filed electronically or on paper.

## *Let's talk*

For more information, please contact our authors:

Anne Waidmann, *Washington, DC*
(202) 414-1858
birgit.a.waidmann@us.pwc.com

Amy Bergner, *Washington, DC*
(202) 312-7598
amy.b.bergner@us.pwc.com

***or your regional Human Resource Services professional:***

Charlie Yovino, *Atlanta*
(678) 419-1330
charles.yovino@us.pwc.com

Craig O'Donnell, *Boston*
(617) 530-5400
craig.odonnell@us.pwc.com

Pat Meyer, *Chicago*
(312) 298-6229
patrick.meyer@us.pwc.com

Terry Richardson, *Dallas*
(214) 999-2549
terrance.f.richardson@us.pwc.com

Todd Hoffman, *Houston*
(713) 356-8440
todd.hoffman@us.pwc.com

Carrie Duarte, *Los Angeles*
(213) 356-6396
carrie.duarte@us.pwc.com

Ed Donovan, *New York Metro*
(646) 471-8855
ed.donovan@us.pwc.com

Bruce Clouser, *Philadelphia*
(267) 330-3194
bruce.e.clouser@us.pwc.com

Jim Dell, *San Francisco*
(415) 498-6090
jim.dell@us.pwc,com

Scott Pollak, *San Jose*
(408) 817-7446
scott.pollack@Saratoga.PwC.com

Nik Shah, *Washington Metro*
(703) 918-1208
nik.shah@us.pwc.com