GBS ACA Compliance

Self & Level Funded Plan Sponsors Must Submit PCOR Institute Fee By July 31

Now Effective Through 2029

Quick Summary

What The Patient-Centered Outcomes Research Institute (PCORI) fee was created by the Affordable Care Act (ACA) and was effective beginning 2012.

Who Employers who sponsor self/level funded plans must submit the fee. Employers who sponsor insured plans need not submit because their carriers will submit instead.

When The fee is submitted and paid once a year by no later than July 31 of the following year
- For example, plans that ended at any time in 2020 pay the 2020 fee by July 31, 2021

Amount The fee is calculated by multiplying the fee amount by the plan's average number of covered lives. A plan MUST calculate average number of lives using one of the following:
- the actual count method
- snapshot count method or snapshot factor method
- Form 5500 method

The fee is adjusted each year and takes effect each October. Consequently, the amount an employer pays per covered life depends on when the plan year ends.
- For example, the fee due July 31, 2021 has two different fee amounts:
- Plans that ended January 2020 through September 2020 pay $2.54 per covered life.
- Plans that ended October 2020 through December 2020 pay $2.66 per covered life.

How The fee is submitted using IRS Form 720, see the IRS PCORI Fee webpage.

In-Depth Summary

Background

The Patient-Centered Outcomes Research Institute (PCORI) fee helps fund the PCOR Institute. The Institute was created by the Affordable Care Act (ACA) to curate objective comparative effectiveness research. Employers who sponsor self/level funded plans calculate the amount of the fee based on number of "covered lives" and submit the fee through IRS Form 720. Originally, the fee was set to run from 2012 to 2019, but legislation enacted in December 2019 (Further Consolidated Appropriations Act 2020) extended the fee for an additional 10 years through 2029.

Plans Subject to the PCORI Fee

Most all medical plans that provide health or accident benefits primarily to individuals living in the U.S. must pay the fee, but only employers who sponsor self/level funded plans must take action to

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submit the fee. For employers who sponsor **insured** plans, the carrier will forward the fee to the IRS. Examples of plans subject to the fee include:

- Major medical
  - This includes retiree-only coverage and COBRA continuation coverage
- Health Reimbursement Accounts (HRAs)
  - An HRA is considered a self-funded plan so the PCORI fee must be paid for the HRA whether it is a stand-alone HRA or is integrated with an insured major medical plan. Note that if integrated with an insured medical plan, the carrier pays the PCORI fee for the underlying insured plan, not the HRA. However, a separate PCORI fee need not be paid for an HRA when an employer also sponsors a self-insured major medical group health plan with the same plan year.
- MEC plans that provide more than just excepted benefits

Plans NOT Subject to the PCORI Fee

- "Excepted" benefits such as stand-alone dental or vision plans, and most health FSAs,
- HRAs that are integrated with self-funded plans with the same plan year,
- HSAs (but the underlying high deductible health plan would be subject to the fee),
- Most Health FSAs (unless the arrangement does not meet excepted benefits requirements), and;
- Employee Assistance Programs (EAPs), disease management, and wellness programs (as long as they do not provide significant benefits in the nature of medical care or treatment).

Paying the PCORI Fee

Third Party Administrators (such as a TPA) may prepare the Form 720 for a self-funded plan, but the employer must file it and is responsible for ensuring the correct amount is paid timely. Late fees that apply for late filing and/or payment may possibly be waived by the IRS if the plan sponsor has reasonable cause and the failure was not due to willful neglect. Fees may not be waived for inadvertent error. See Part II (Pages 8-9) of the IRS instructions.

The Form 720 may be filed with the IRS by U.S. mail, private delivery services, or electronically. Electronic filings are made using the Electronic Federal Tax Payment System (EFTPS). See Form 720 Instructions. Corrections to a previously-filed Form 720 filings may be made using Form 720X. (See Q/A 16 on the IRS PCORI Fee webpage). Include the Form 720-V payment voucher and check the "second quarter" box.

The Amount Per Covered Life:

The original fee amount in 2012 was $1.00 per covered life but the amount has increased over time through annual indexing. That adjustment takes effect October of each year. Consequently, the amount an employer pays per covered life depends on when the plan year ends.

These rates and time periods are clearly shown on Form 720 under Part II, line/section 133 so it is difficult to make a mistake on the per covered lives" amount. The fee in 2012 was originally $1.00 per

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"covered life" (per participant) and every year it increases. The new amount is announced by the IRS each year and is effective every October 1.

- For example, for a plan year that ended January, February, March, April, May, June, July, August or September 30, 2020, the fee is $2.54 per "covered life" and for a plan year that ended October, November or December 2020, the fee is $2.66 per "covered life".

The Due Date:

The due date is by July 31 each year. Note that for certain non-calendar year plans, there is a longer span of time after the end of a plan year than for other plans before the fee is due. This is because technically, the due date is July 31 "of the calendar year immediately following the last day of the policy year or plan year to which the fee applies."

- For example, plan years ending March 31, 2020 or September 30, 2020 or December 31, 2020 must all pay the PCORI fee by July 31, 2021.

Completing Form 720 Instructions

IRS Form 720 is used by the IRS to collect several different fees from employers. For the PCOR fee, first complete the employer information in the header section above Part I. Under "quarter ending" enter the last day of second quarter (June 30) . Then go to second page, Part II, line 133 section (c) or section (d) under PCOR fee and complete the following:

- Column (a) report the average number of lives covered
    - The sponsor of a self/level funded plan must use one of three specific methods to calculate the average number of covered lives. Please refer to the *How to Determine the Average Number of Covered Lives* below.
    - The number of covered lives is based on the average number of enrollees for the plan or policy year, whether that is a full 12-month year or a short plan or policy year. Thus, if an employer offers an insured plan with a policy renewal date of January 1, but as of October 1 changes to a self/level funded plan, the insurer will pay the PCORI fee for the January 1 - September 1 policy year, and the plan sponsor will pay the PCORI fee for the plan year that begins October 1, whether that is a full or short plan year. (See Q/A 13 on the IRS PCORI Fee webpage.)
- Column (b) apply the applicable rate
    - The amount per covered life is clearly marked in this column and is accurate as long as the appropriate year form is used.
- Column (c) enter the fee due in column
    - Note the form does not automatically calculate the amount, so calculate carefully.

On the last row under Part II (line 2) enter fee amount again. Under Part III complete lines 3 and 10. Then complete the "Sign Here" section and complete payment voucher 720-V for "second quarter"

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How to Determine the Average Number of Covered Lives

When completing Form 720, a plan must insert the average number of covered lives. The sponsor of a self/level funded plan must use one of the three counting methods to accurately determine the average number of covered lives. For this process, the TPA may be able to provide assistance. When choosing a method, it is wise to select the method that results in the lowest number.

- For example, if enrolled employees with family coverage often cover more than two family members, the employer will likely pay lower PCORI fees by using the "Snapshot factor" method explained below.

1) Actual count method

Add the number of covered lives for each day of the plan year and divide by that number of days (365, or less for or a short plan year). In practice, if you use this method, you probably will be counting the average number of enrollees per month and dividing by 12, since most TPAs report numbers on a monthly basis, not a daily basis.

2) Snapshot methods

There are two types of snapshot methods, explained below. The general methodology is the same under each: add the total number of lives covered on one or more dates in each quarter, and divide by the total number of dates on which the count was made. A plan need not pick exactly the same date or dates in each quarter, but each date used for the second, third, and fourth quarters must be within three days of the date in that quarter that corresponds to the date used for the first quarter, and all dates used must fall within the same ERISA plan year.

- **2.A. Snapshot Count Method**:
  - The number of lives equals the actual number of lives covered on the designated date or dates, divided by the number of dates on which a count was made. This includes employees, spouses, other dependents, retirees, and COBRA qualified beneficiaries.
- **2.B. Snapshot Factor Method:**
  - The number of lives equals the sum of:
    - the number of employee participants with self-only coverage on the selected date(s), plus
    - the number of employee participants with coverage other than self-only coverage on the same date(s), multiplied by 2.35
  - *As noted previously, this method may result in the lowest PCORI fees if enrolled employees with family coverage often cover more than two family members.*

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3) Form 5500 method

A calendar year plan can use the 5500 method only if the 5500 is filed no later than the July 31 PCORI fee due date. This means an employer cannot use this method for PCORI if it files for an extension to file the 5500 later than July 31.

- If the plan *only provides self-only cover*age: add the number of plan participants at the beginning and end of the plan year (as reported on lines 5 and 6(d) of the 5500) and divide by two.
- If the plan *also offers coverage other than self-only*: add the number of plan participants reported on lines 5 and 6(d) at the beginning and end of the plan year and do not divide by two.

Calculation Record-keeping Requirements

The federal government may request documentation of how of the fees were calculated, so employers should keep records to show how they determined the number of covered lives and the fee amount to apply. The Form 720 instructions advise taxpayers to keep their returns and supporting documentation for at least four years from the date the tax return was due, or if later, the date it was paid or file.

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