

Employers, Have You Paid Affordable Care Act Fees For Your Health Plan? They May Be Due By July 31—Are You Ready?

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The Patient Centered Outcomes Research Institute (PCORI) is an organization established by the **Patient Protection and Affordable Care Act (PPACA)** aimed at giving patients a better understanding of the prevention, treatment, and care options available, and the science that supports those options. PCORI will be funded by fees paid by health insurance issuers and employers who sponsor self-insured group health plans. **Most plans must begin paying this fee by July 31, 2013.** The following alert discusses which self-insured plans must pay a fee, how to calculate the fee, and how to pay the fee.

Self-Insured Plans Subject to PCORI Fees

Generally, any plan established or maintained by one or more employers for their employees that provides accident or health coverage, any portion of which is provided other than through an insurance policy, is a self-insured plan subject to PCORI fees. This includes the following employer-sponsored self-insured health plans:

- medical and prescription drug plans;
- dental plans, vision plans, and health FSAs that are not excepted benefits under HIPAA;
- retiree-only plans; and
- employee assistance programs (EAPs) and wellness programs that provide “significant” medical benefits.

PCORI fees will not apply to HIPAA-excepted benefits, stop loss policies, or plans designed to primarily cover expatriates.

If an employer sponsors more than one self-insured arrangement, those arrangements may be treated as a single plan for purposes of calculating the PCORI fee, but only if the plans have the same plan year.

Calculating the PCORI Fee

The first plan year ending between October 1, 2012 and September 30, 2013 is the first plan year for which a PCORI fee is being assessed. For this first year, the PCORI fee equals one dollar times the average number of lives covered under the plan. The PCORI fees will increase over time as follows:

Year	Fee
First Plan Year	\$1 x average covered lives
Second Plan Year	\$2 x average covered lives
Thereafter	Indexed with increase in per capita nation health expenditures

Employers generally may determine the average number of covered lives in one of three ways:

- Average the number of lives covered each day of the plan year.
- Average the number of lives covered on one day in each quarter (the date in each quarter must be selected in accordance with IRS rules). The average number of lives on any day may be determined under either of the following methods:
 - Count the actual number of lives covered; or
 - Sum the number of participants with coverage that is not self-only times 2.35 and the number of participants with self-only coverage on that date.
- If the plan's 5500 will be filed by the date the PCORI fee is due:
- For a plan offering self-only coverage, average the number of participants reported on the 5500 at the beginning and end of the plan year; and
- For a plan offering coverage other than self-only coverage, sum the number of participants reported on the 5500 at the beginning and end of the plan year.

However, for plan years beginning before July 11, 2012, and ending on or after October 1, 2012, employers may use any reasonable method to determine the average number of lives covered.

Paying the PCORI Fee

The PCORI fee for each plan year is due by July 31 of the calendar year immediately following the last day of the plan year. This means that if a employer sponsors a plan with a plan year ending between October 1, 2012, and December 31, 2012, the first PCORI fee is due on July 31, 2013.

Employers must pay the PCORI fee by filing IRS Form 720. Although this form is for quarterly federal excise tax returns, employers need to report and pay PCORI fees only annually.

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