

COMPLIANCE ALERT



EMPLOYEE BENEFITS | June 21, 2023

REMINDER: PCORI Fees Due By July 31, 2023

Employers that sponsor self-insured group health plans, including health reimbursement arrangements (HRAs) should keep in mind the upcoming July 31, 2023 deadline for paying fees that fund the Patient-Centered Outcomes Research Institute (PCORI) via [Form 720](#), which was recently updated and released by the IRS. As background, the PCORI was established as part of the Affordable Care Act (ACA) to conduct research to evaluate the effectiveness of medical treatments, procedures and strategies that treat, manage, diagnose or prevent illness or injury. Under the ACA, most employer sponsors and insurers are required to pay PCORI fees until 2029, as it only applies to plan years ending on or before September 30, 2029 (unless extended).

The amount of PCORI fees due by employer sponsors and insurers is based upon the number of covered lives under each “applicable self-insured health plan” and “specified health insurance policy” (as defined by regulations) and the plan or policy year end date. This year, employers will pay the fee for plan years ending in 2022.

The fee is due by July 31, 2023 and varies based on the applicable plan year as follows:

- For plan years that ended between January 1, 2022 and September 30, 2022, the fee is **\$2.79** per covered life.
- For plan years that ended between October 1, 2022 and December 31, 2022, the fee is **\$3.00** per covered life.

For example, for a plan year that ran from July 1, 2021 through June 30, 2022 the fee is \$2.79 per covered life. The fee for calendar year 2022 plans is \$3.00 per covered life. The insurance carrier is responsible for paying the PCORI fee on behalf of a fully insured plan. The employer is responsible for paying the fee on behalf of a self-insured plan, including an HRA. In general, health FSAs are not subject to the PCORI fee.

Employers that sponsor self-insured group health plans must report and pay PCORI fees using the newly released (Rev. June 2023) [IRS Form 720, Quarterly Federal Excise Tax Return](#). Employers indicate on Form 720 and Form 720-V (the payment voucher) that the form and payment are for the 2nd quarter of 2023. If this is an employer’s last PCORI payment and they do not expect to owe excise taxes that are reportable on Form 720 in future quarters (e.g., because the plan is terminating), they may check the “final return” box above Part I of Form 720.

Also note that because the PCORI fee is assessed on the plan sponsor of a self-insured plan, it generally should not be included in the premium equivalent rate that is developed for self-insured plans if the plan includes employee contributions. However, an employer’s payment of PCORI fees is tax deductible as an ordinary and necessary business expense.

Historical Information for Prior Years

- For plan years that ended between October 1, 2021 and December 31, 2021, the fee is \$2.79 per covered life and was due by July 31, 2022.
- For plan years that ended between January 1, 2021 and September 30, 2021, the fee is \$2.66 per covered life and was due by July 31, 2022.
- For plan years that ended between October 1, 2020 and December 31, 2020, the fee is \$2.66 per covered life and was due by July 31, 2021.
- For plan years that ended between January 1, 2020 and September 30, 2020, the fee is \$2.54 per covered life and was due by July 31, 2021.

Explanation of Counting Methods for Self-Insured Plans

Plan Sponsors may choose from three methods when determining the average number of lives covered by their plans.

Actual Count method. Plan sponsors may calculate the sum of the lives covered for each day in the plan year and then divide that sum by the number of days in the year.

Snapshot method. Plan sponsors may calculate the sum of the lives covered on one date in each quarter of the year (or an equal number of dates in each quarter) and then divide that number by the number of days on which a count was made. The number of lives covered on any one day may be determined by counting the actual number of lives covered on that day or by treating those with self-only coverage as one life and those with coverage other than self-only as 2.35 lives (the “Snapshot Factor method”).

Form 5500 method. Sponsors of plans offering self-only coverage may add the number of employees covered at the beginning of the plan year to the number of employees covered at the end of the plan year, in each case as reported on Form 5500, and divide by 2. For plans that offer more than self-only coverage, sponsors may simply add the number of

employees covered at the beginning of the plan year to the number of employees covered at the end of the plan year, as reported on Form 5500.

Special rules for HRAs. The plan sponsor of an HRA may treat each participant’s HRA as covering a single covered life for counting purposes, and therefore, the plan sponsor is not required to count any spouse, dependent or other beneficiary of the participant. If the plan sponsor maintains another self-insured health plan with the same plan year, participants in the HRA who also participate in the other self-insured health plan only need to be counted once for purposes of determining the fees applicable to the self-insured plans.

This alert was prepared for Woodruff Sawyer by Marathas Barrow Weatherhead Lent LLP, a national law firm with recognized experts on the Affordable Care Act. Contact Stacy Barrow or Nicole Quinn-Gato at sbarrow@marbarlaw.com or nquinngato@marbarlaw.com.

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