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# HCR ALERT

June 9, 2016

## Reminder: PCORI Fees Due by August 1, 2016

Employers that sponsor self-insured group health plans, including health reimbursement arrangements (HRAs) should keep in mind the upcoming August 1, 2016 deadline for paying fees that fund the Patient-Centered Outcomes Research Institute (PCORI). As background, PCORI was established as part of health care reform to conduct research to evaluate the effectiveness of medical treatments, procedures and strategies that treat, manage, diagnose or prevent illness or injury.

Employer plan sponsors and insurers are required to pay annual fees for a 7-year period beginning with the plan year that ended on or after October 1, 2012. Fees are due by July 31st of the calendar year following the end of the plan year to which the fee applies (or the next business day if July 31<sup>st</sup> falls on a weekend or Federal holiday). This means fees are due no later than August 1, 2016 for plan years that ended in 2015.

The insurance carrier is responsible for paying the PCORI fee on behalf of a fully insured plan and the employer sponsor is responsible for paying the fee on behalf of a self-insured plan. In addition to medical/prescription drug plans (including COBRA and retiree coverage), applicable self-insured health plans include prescription drug carve-outs, HRAs and non-excepted dental, vision, or health care FSA plans, unless integrated with another self-funded major medical plan from the same plan sponsor with the same plan year. Excepted benefits, health savings accounts (HSAs), expatriate plans, stop loss coverage, Medicare supplement policies, and most EAPs are not subject to the fee.

The amount of PCORI fees due by employer sponsors and insurers is based upon the number of covered lives (i.e., enrollees and covered dependents) under each applicable self-insured health plan or specified health insurance policy and the plan or policy year end date, as follows:

	<b>Plans With Annual Plan Years That End Between Oct. 1 and Dec. 31</b>			<b>Plans With Annual Plan Years That Between Jan. 1 and Sep. 30</b>		
	<b>Plan Year Ending Between</b>	<b>Due Date</b>	<b>Yrly. Per Life Fee</b>	<b>Plan Year Ending Between</b>	<b>Due Date</b>	<b>Y L</b>
Year 1	10/1/12 and 12/31/12	7/31/13	\$1.00	1/1/13 and 9/30/13	7/31/14	\$
Year 2	10/1/13 and 12/31/13	7/31/14	\$2.00	1/1/14 and 9/30/14	7/31/15	\$

Year 3	10/1/14 and 12/31/14	7/31/15	\$2.08	1/1/15 and 9/30/15	8/1/16	\$2.08
Year 4	10/1/15 and 12/31/15	8/1/16	\$2.17	1/1/16 and 9/30/16	7/31/17	\$2.17
Year 5	10/1/16 and 12/31/16	7/31/17	TBD	1/1/17 and 9/30/17	7/31/18	TBD
Year 6	10/1/17 and 12/31/17	7/31/18	TBD	1/1/18 and 9/30/18	7/31/19	TBD
Year 7	10/1/18 and 12/31/18	7/31/19	TBD	1/1/19 and 9/30/19	7/31/20	TBD

Employers that sponsor self-insured group health plans must report and pay PCORI fees using IRS Form 720, Quarterly Federal Excise Tax Return, which is an existing form used for a variety of Federal excise taxes. Although it is a “quarterly” form, if an employer plan sponsor has no other excise taxes to report via Form 720, it need only file the form once per year.

Note: Because the PCORI fee is assessed on the sponsor of a self-insured plan and not on the plan itself, the fee may not be paid from plan assets. Therefore, the fee should not be included in the premium equivalent rate developed for a self-insured plan if the plan is funded entirely by employee contributions and/or employer contributions placed in a trust (including COBRA premium equivalents, which are entirely participant-paid). However, an employer’s payment of PCORI fees is tax deductible as an ordinary and necessary business expense.

### Counting Methods for Self-Insured Plans

Self-insured plan sponsors may choose from four methods when determining the average number of lives covered by their plans.

- *Actual Count Method.* Calculate the sum of the number of lives covered for each day in the plan year and then divide that sum by the number of days in the year.
- *Snapshot Method.* Calculate the sum of the number of lives covered on one date in each quarter of the plan 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. *Note:* Each date used for the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> quarters must be within 3 days of the date in that quarter that corresponds to the date used for the 1<sup>st</sup> quarter, and all dates used must fall within the same plan year.
- *Snapshot Factor Method.* Similar to the Snapshot Method, except the number of covered lives on each date is determined by treating those with self-only coverage as one life and those with coverage other than self-only as 2.35 lives.
- *Form 5500 Method.* 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 the most recently filed Form 5500. If the plan offers only self-only coverage, divide the result by 2. *Note:* Method cannot be used if Form 5500 is for a “wrap plan” that includes coverage other than the self-insured health coverage for which PCORI fees are due (e.g., insured medical, life, disability, etc.)

*Special rule 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.

### Conclusion

Self-funded health plan sponsors that have not already done so for their plan year what ended in 2015 should:

- Determine which plans are subject to the fee;
- Determine the method by which you will determine the average number of covered lives under the plan(s);
- Gather necessary data and calculate average number of covered lives and fee amount due for the year; and
- File Form 720 and remit payment to IRS no later than August 1, 2016.

Because Form 720 is a tax filing, Trion cannot prepare the form on our clients' behalf, but your Trion account team is available to address questions you might have as you take action to comply with the filing requirement. If you are not currently a Trion client and would like assistance navigating the requirements of the ACA, please contact us today by emailing [trionsales@trion-mma.com](mailto:trionsales@trion-mma.com).

### **ACA Guidance Released in the Last Two Months**

- May 2016: [EEOC Issues Final ADA and GINA Rules on Wellness Programs and ADA FAQs](#) and  
May 2016: [HHS Issues Final Rule on Section 1557 Nondiscrimination in Health Programs and /](#)  
May 2016: [ACA FAQs 31 – Patient Bill of Rights Topics](#)  
Apr. 2016: [IRS Issues Rev. Proc. 2016-24 2017 Affordability Threshold & Marketplace Required Percentages](#)  
Apr. 2016: [Agencies Issue Revised SBC Template, Instructions, Uniform Glossary, and Other R Documents](#)

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