COMPLIANCE ALERT

EPIC Insurance Brokers & Consultants

PATIENT-CENTERED OUTCOMES RESEARCH INSTITUTE (PCORI) FEE PAYMENT DUE JULY 31

July 1, 2019

QUICK FACTS

- Federal law imposes an annual fee on health plans to help fund the Patient-Centered Outcomes Research Institute (PCORI).
- The fees are calculated using the average number of lives covered under the policy or plan, and the applicable dollar amount for that policy or plan year.
- For insured health plans, the carrier or HMO is responsible for reporting and paying the fee.
- Employers that sponsor a self-insured health plan must pay the fee for that plan.
- Payers – insurers or employers – use IRS Form 720 to report and remit the fee.

The Affordable Care Act (ACA) created PCORI to help patients, clinicians, payers and the public make informed health decisions by advancing comparative effectiveness research. PCORI's research is to be funded, in part, by fees paid by either health insurers or sponsors of self-insured health plans. These fees are widely known as PCORI fees.

Health insurers and self-insured plan sponsors are required to report and pay PCORI fees annually using IRS Form 720 (Quarterly Federal Excise Tax Return). The report and fees are due on July 31 with respect to the plan year that ended during the preceding calendar year. For instance, for calendar year plans, the fee that is due July 31, 2019, applies to the plan year that ended December 31, 2018.

REPORTING PCORI FEES ON FORM 720

Form 720 and instructions are posted on the IRS's website. Insurers and self-insured plan sponsors must report the average number of lives covered under the plan. For insured plans, the carrier or HMO enters information for "specified health insurance policies." For a self-insured plan, the employer plan sponsor enters information for "self-insured health plans." The number of covered lives is then multiplied by the applicable rate based on the plan year end date.

Form 720 that is due July 31, 2019, will reflect payment for plan years ending in 2018. The applicable rate depends on the plan year end date:

- **$2.39** for plan years ending between January 1, 2018 and September 30, 2018
- **$2.45** for plan years ending between October 1, 2018 and December 31, 2018

The PCORI fee requirement is scheduled to sunset this year, so PCORI fees will not apply for plan years ending after September 30, 2019.

For non-calendar year plans that end between January 1, 2019 and September 30, 2019, there will be one last PCORI payment due by July 31, 2020.

Insurers or self-insured plan sponsors that file Form 720 only for the purpose of reporting PCORI fees do not need to file Form 720 for the first, third or fourth quarter of the year. Insurers or self-insured plan sponsors that file Form 720 to report quarterly excise tax liability (for example, to report the foreign insurance tax) should enter a PCORI fee amount only on the second quarter filing. See "Background" below for more information about affected plans and methods for calculating the number of participants and amount of the required PCORI fee.

PCORI FEES ARE TAX-DEDUCTIBLE

In a memorandum, the IRS issued a ruling that generally concluded that the payment of PCORI fees should be tax deductible as an ordinary business expense.

BACKGROUND ON PCORI FEES

What health plans are subject to the fee?

There are two types of health plans subject to PCORI fees:

- **Specified Health Insurance Policy**: A health insurance policy, including grandfathered and non-grandfathered group plans (PPOs, HMOs, Rx, etc.) for employees, retirees and COBRA participants. "HIPAA-excepted benefits" (discussed below) are exempt from the fee. Insurers (not employers) are responsible for calculating and paying the fee for all specified health insurance policies.
- **Applicable Self-Insured Health Plan**: A self-insured health plan established or maintained by employers for their workers and/or retirees. "HIPAA-excepted benefits" (discussed below) are exempt from the fee. The plan sponsor (employer) is responsible for calculating and paying the fee for its self-insured health plans.

For a health reimbursement arrangement (HRA) that is integrated with a self-insured major medical plan, the fee applies only once to the integrated plan (due to the "multiple self-insured plans" non-duplication rule). However, if the HRA is integrated with an insured medical plan, the employer will pay the fee with respect to the HRA and the carrier will pay the fee for the insured plan.

What health plans are NOT subject to the fee?

PCORI fees do NOT apply to these types of plans or programs:

- Policies or plans providing benefits that are HIPAA-excepted benefits. HIPAA-excepted benefits generally are stand-alone dental and vision plans, on-site medical clinics, and health flexible spending accounts (health FSAs), provided that the employee has other group health coverage available and the employer does not contribute more than $500 to the health FSA.

- Employee assistance plans, disease management programs, or wellness programs, provided that the plan or program does not provide significant benefits for medical care or treatment.
- Health savings accounts (HSAs).
- Stop-loss insurance policies.

Calculating the fee

Employers with applicable self-insured health plans must determine how to calculate PCORI fees for their self-insured health plans. The regulations provide that multiple self-insured plans that are (a) sponsored by the same employer, (b) cover the same participants, and (c) have the same plan year are considered one plan for PCORI fee purposes. For instance, the employer will pay the fee only once for each employee (retiree) and dependent covered by a self-insured medical plan with a self-insured prescription drug plan.

Calculating the number of participants

The regulations permit several methods to count the average number of plan participants, but the same method must be used consistently through the plan year. It is permissible to change to one of the other approved methods for the following year.

There are three types of methods:

- **Average Count Method:**
  - Count the number of covered lives each day of plan year, then divide by the number of days in the plan year.
- **Snapshot Count Method**:
  - *Snapshot Count.* Count the number of covered lives on one day each quarter, then divide by four. Alternatively, the employer may count covered lives on several days each quarter (as long as the same number of days is used each quarter) and then divide by the number of days on which lives were counted. Many employers will find this method most convenient by simply taking the participant count from a monthly eligibility file or ASO bill, as long as all covered family members are included.
  - *Snapshot Factor.* Use the same process as above, but rather than counting covered lives for each date, count the number of employees with self-only coverage plus the number of covered employees with coverage other than self-only coverage multiplied by 2.35.

- **Form 5500 Method:**
  - For a plan offering self-only coverage, combine the total participating employee count at the beginning of the plan year (as reported on Form 5500) with the total participating employee count at the end of the plan year and divide by two.
  - For plans offering coverage to employees and dependents, add the participant counts at the beginning and ending of the plan year (as reported on Form 5500). This method eliminates the need to count dependents since the IRS will assume the sum of the beginning and ending year counts roughly equals employees plus dependents.
  - This method is available only to employers who have filed their Form 5500 for the applicable plan year prior to July 31, 2018. Therefore, if an employer sponsors a calendar year self-insured health plan, and is relying on the 2½ month extension for filing Form 5500, the employer is not eligible to use the Form 5500 Method.

For health FSAs and HRAs that do not qualify for the exemptions explained above, count only the number of employee participants and disregard the dependents.

EPIC Employee Benefits Compliance Services

For further information on this or any other topics, please contact your EPIC benefits consulting team.