Health Care Legislation Status

PCORI Fee

The PCORI fee is part of the Affordable Care Act (ACA) and funds the Patient-Centered Outcomes Research Institute, a private, non-profit corporation intended to advance informed health decision-making and to support clinical effectiveness research. The fee was originally effective for policy and plan years ending after September 30, 2012 and before October 1, 2019. On December 20, 2019, the federal government extended the termination date such that the fee will not apply to policy and plan years ending after September 30, 2029. Yesterday, the Internal Revenue Service issued a notice containing the annual per member fee for plan years beginning on or after October 1, 2019.

Under the ACA and continuing with the expanded termination date, all medical plans are responsible for paying the fee to the IRS, based on the number of plan participants. If the plan is fully insured, the insurance carrier pays the fee. The insurance carriers added the fees to the monthly premiums billed to their clients. The carriers did not add fees to the premiums for plan years beginning on or after October 1, 2019 because of the original sunset date for the fee. Oswald has asked all major carriers about how they will address the reinstatement of the fee. We will supply an update after we receive their responses.

If the plan is self-insured, the employer/plan sponsor must file and pay the fee to the IRS. Self-Funded Plans cannot pay the fees from plan assets and the fees cannot be part of employee contributions.

THE PCORI FEE

- Applies to all plans including retiree-only & mini-med plans.
- Applies to active employees and former employees (qualified beneficiaries under COBRA continuation coverage).
- Reported / paid once a year & due no later than July 31 of the year following the last day of the plan year on IRS Form 720 (Quarterly Federal Excise Tax Return).
- Does NOT apply to HIPAA excepted benefit plans (e.g., stand-alone dental & vision plans), long-term care, home care (if offered separately from medical plans), disease/illness coverage, accident coverage, disability coverage, and workers’ compensation. Stop-Loss & reinsurance polices are NOT subject to the PCORI fee.
DETAILS

All self-funded plans, including health FSAs and HRAs, must pay the fee unless considered an excepted-benefit.

- A health FSA is an excepted-benefit as long as the employer does not contribute more than $500/year and offers another plan with non-excepted benefits.
- An HRA is an excepted-benefit if it only reimburses for excepted-benefits (e.g., limited-scope dental and vision expenses or long-term care coverage) and is not integrated with the group medical plan.

PAYMENT & REPORTING

- **Calendar Year Plans:** Fee Applies for Calendar Plan Year 2012 – 2028
- **Non-Calendar Year Plan Example:** Fee for Plan Year of July 1 - June 30: Applies from [July 1, 2012 - June 30, 2013] until [July 1, 2028 - June 31, 2029].

PAYMENT, REPORTING INFORMATION AND ANNUAL PER MEMBER FEES

- Plan years ending on or after Oct 1, 2018 and before Oct 1, 2019: $2.45 per covered life
- Plan years ending on or after Oct 1, 2019 and before Oct 1, 2020: $2.54 per covered life

Note: The government printing office has not updated the Form 720 for the annual per member fee released yesterday. Self-insured plans are recommended waiting until the revised Form 720 is issued. We expect this will happen shortly.

Oswald will continue to supply its clients using self-insured medical plans with the data necessary to file their Forms 720.

Please contact your Oswald client team representative for further information.

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