

Benefits BULLETIN



PCORI Fee Deadline Just Around the Corner

• May 2024 •

The Affordable Care Act (ACA) requires health insurers and sponsors of self-funded group health plans to pay an annual Patient-Centered Outcomes Research Institute (PCORI) fee by July 31. Originally, the law provided that the PCORI fee would not be assessed for plan years ending after September 30, 2019. However, legislation passed in December 2019 extended the PCORI fee for an additional 10 years, until 2029.

What Plans are Subject to the Fee?

The fee applies to both insured and self-funded health plans, including grandfathered health plans, retiree-only plans, and plans sponsored by governmental entities. It also applies to health reimbursement arrangements (HRAs) and certain health flexible spending accounts (Health FSAs) that do not qualify as an excepted benefit.

Who is Responsible for Paying the PCORI Fee?

For insured health plans, the carrier is responsible for calculating, reporting, and paying the fee. For self-funded health plans, which includes level-funded health plans, the employer-sponsor is responsible for calculating, reporting, and paying the fee, though some third-party administrators may provide assistance.

How Much is the PCORI Fee?

In [IRS Notice 2023-70](#), the IRS announced that the adjusted amount of the PCORI fee is \$3.22 per covered life for policy and plan years that ended on or after October 1, 2023 (including 2023 calendar year plans) and before October 1, 2024. For plan years that ended on or after October 1, 2022 and before October 1, 2023, the fee is \$3.00 per covered life.

PCORI fees are based on the average number of covered lives under the plan or policy. "Covered lives" generally include employees (and retirees) and their enrolled spouses and dependents, as well as individuals who are receiving COBRA or other continuation coverage.

IRS regulations provide three permissible methods for calculating the number of covered lives under the plan:

- (1) **Actual Count Method.** Under the actual count method, the average number of covered lives for a plan year may be determined by adding the total of lives covered for each day of the plan year and dividing that total by the total number of days in the plan year.
- (2) **Snapshot Method.** Under the snapshot method, the total number of lives covered on a date in each quarter of the plan year (or an equal number of dates for each quarter, like the first day of each month) are added together, then divided by the total number of dates on which a count was made.
- (3) **Form 5500 Method.** Under the Form 5500 method, the average number of covered lives may be determined based on a formula that takes into account the number of participants reported on the Form 5500 annual report for the plan.

How and When are PCORI Fees Reported and Paid?

PCORI fees are reported on IRS Form 720 Quarterly Federal Excise Tax Return, which includes a section specific to the PCORI fee. The version of Form 720 should indicate a revision date of June of the year in which the fee is being reported. For fees reported by July 31, 2024, this revision date will be June 2024. Typically, the IRS does not release the June-revised Form 720 until near the middle or end of June; as a result, fees cannot be reported and submitted any earlier.

There is a payment voucher at the bottom of Form 720, which should be completed to show the amount of the payment. It is essential to check the "Second Quarter" box on the payment voucher when submitting the IRS Form 720 and PCORI fee payment to the IRS.

The Form 720 and PCORI fees are due annually by July 31 of the calendar year following the end-date of the policy or plan year to which the fee applies. For example, a plan year that ends on December 31, 2023, will submit the PCORI fee associated with the 2023 plan year by July 31, 2024.

How are Corrections and Amendments Filed?

The final regulations do not address whether plan sponsors may correct or amend a previously filed Form 720 if errors were made or a filing was missed. However, the regulations note that the penalties associated with the late filing of Form 720 or late payment of the fee may be waived or abated if the issuer or plan sponsor has reasonable cause and the failure was not due to willful neglect.

According to the FAQ page on the IRS website, "A plan sponsor or policy issuer should make corrections to a previously filed Form 720 by filing a Form 720X, Amended Quarterly Federal Excise Tax Return, including adjustments that result in an overpayment. Form 720X may be filed anytime within the applicable limitation period."

Are there Penalties for Failure to Report and Pay the Fee?

The final regulations do not include a specific penalty for failure to report or pay the PCORI fee. However, since this fee is considered an excise tax that is reportable on IRS Form 720, any related penalty for failure to file a return or pay a tax will apply. Generally, this penalty is equal to 5% of the total fee amount for each month the filing is late (capped at five months), and/or .5% of the total fee amount for each month the payment is late – plus interest.

ADDITIONAL RESOURCES

[IRS Form 720](#)

[IRS Form 720X](#)

[IRS PCORI FAQs](#)