

PCORI Fees

December 2024

The Affordable Care Act (ACA) created a nonprofit corporation, the Patient-Centered Outcomes Research Institute (PCORI) to support clinical effectiveness research for healthcare. Information about the institute's research and impact can be found at <https://www.pcori.org/>. The institute is funded in part by fees paid by health insurers and sponsors of self-funded health plans (PCORI fees), which are reported and paid annually in the second quarter using Form 720. General summary information regarding reporting and paying PCORI fees can be found at <https://www.irs.gov/newsroom/patient-centered-outcomes-research-institute-fee>.

Plans Subject to the Fee

The PCORI fee applies to most group health plans, but not to excepted benefits. Health reimbursement arrangements (HRAs) are self-funded plans subject to the PCORI fee. This includes qualified small employer HRAs (QSEHRAs) and individual coverage HRAs (ICHRAs). Retiree-only plans are also subject to the PCORI fee. NOTE: Health flexible spending arrangements (FSAs) that qualify as excepted benefits are not subject to the fee, but health FSAs not meeting the maximum benefit and availability conditions would be subject to the PCORI fee.

The IRS published a chart that describes the different types of plans subject to the fee here – <https://www.irs.gov/newsroom/application-of-the-patient-centered-outcomes-research-trust-fund-fee-to-common-types-of-health-coverage-or-arrangements>.

Fully-Insured Plans – For fully-insured plans, the health insurance carriers report and pay the fee (the employer should not have to do anything).

Self-Funded Plans – For self-funded group health plans, including HRAs and retiree-only plans, employers are responsible for reporting and paying the fee.

Originally the PCORI fee applied to plan years ending after September 30, 2012 and before October 1, 2019. However, the Consolidated Appropriations Act, 2020 extended the PCORI fees another 10 years to 2029.

Reporting the Fee

The fee is paid using quarterly excise tax Form 720, Line 133 (133(c) and (d) for self-funded plans) and must generally be paid no later than July 31st of the year following the last day of the plan year. The fee must be reported in the 2nd quarter (e.g., for the quarter ending June 30). For employers that do not otherwise file quarterly excise taxes, the Form 720 might only be filed for the 2nd quarter each year to report the PCORI fee.

The PCORI fee should be reported and paid only for the 2nd quarter Form 720, regardless of the employer's plan year. Attempting to fulfill the PCORI reporting and payment requirements in any other quarter will likely result in

a late filing penalty. Though the late filing penalty may be able to be waived if there is an explanation provided to the IRS, it is an additional hassle to do so.

Payment amounts are increased annually and differ based on the ending date of the employer's plan year. The IRS chart illustrating plan year end dates with applicable fees and due dates can be found here -

<https://www.irs.gov/affordable-care-act/patient-centered-outreach-research-institute-filing-due-dates-and-applicable-rates>. The IRS chart is consistently out of date, but the most recent applicable fees are below:

For Plan Years Ending...	Applicable PCORI Fee
On or after October 1, 2023 and before October 1, 2024	\$3.22
On or after October 1, 2024 and before October 1, 2025	\$3.47

Calculating the Average Covered Lives

Self-funded plans may use one of three methods to determine the average covered lives used for reporting and paying the PCORI fee. Plan sponsors must stick with one method for the entire plan year but can change methods from year to year. COBRA participants and retirees should be counted, regardless of which method below is chosen.

Actual Count Method:

Calculate the lives covered for each day of the plan year and divide by the number of days in the plan year.

Snapshot Method:

Add the lives covered on a consistent date each month or quarter and divide the total by the number of dates on which a count was made (e.g., divide by 12 if the count is done each month, or by 4 if the count is done each quarter). Under the snapshot method, there are two methods for counting family members:

- Count the actual lives covered on the designated date; or
- Count the participants with self-only coverage on the designated date, plus the participants with coverage other than self-only coverage on the designated date multiplied by 2.35.

Form 5500 Method:

Use the participant count reported on the Form 5500 for the plan year. The number of average covered lives is determined by adding the participant counts at the beginning and the end of the plan year. However, if a plan offers only single coverage, the final result is divided by 2. NOTE: This method may be used only if the Form 5500 is filed no later than the due date for the fee imposed for that plan year.

There are two special rules that may apply for counting covered lives when an employer offers multiple self-funded plans or offers an HRA integrated with a fully-insured group medical plan.

Multiple Self-Funded Plans – If one plan sponsor maintains more than one self-funded health plan with the same plan year, the arrangements can be treated as a single plan for purposes of the fee. In other words, each unique covered life is only counted once. For example, if the employer offers a self-funded group medical plan and an integrated HRA, the employer could base the fee off the covered lives for the group medical plan and disregard the HRA (because the same individuals are covered under both plans).

HRAs (and health FSAs not meeting excepted benefit status) – An employer who sponsors an HRA integrated with a fully-insured medical plan is required to pay the fee only with respect to each HRA participant/employee; the employer is not required to count dependents or beneficiaries.

For short plan years, there are no special rules for pro-rating the average covered lives or the fee. If the employer is using the actual count method, the total is divided by a lesser number of days due to the short plan year. If the snapshot method is used, the total is divided by the number of months or quarters of the short plan year. See the FAQ from the IRS found here - <https://www.irs.gov/affordable-care-act/patient-centered-outcomes-research-trust-fund-fee-questions-and-answers>, specifically Q&A #12-14

Failure to Pay the Fee

The IRS has not provided formal guidance for entities that fail to pay the PCORI fee, but it is generally advisable to file a Form 720 for the applicable year (or Form 720X for an amendment) as soon as possible for any missed fees and then to pay any associated fines or penalties the IRS may assess. A separate Form 720 should be filed for each missed plan year rather than paying fees for multiple plan years on the same Form 720.

The PCORI rules do not contain a specific penalty for failure to report or pay the PCORI fee, but since this fee is considered an excise tax, any related penalty for failure to file a return or pay a tax would seem to apply. Code §6651 includes the following penalties for failure to file a return or pay taxes.

- For failure to file the Form 720, the penalty is 5% of the excise tax due for each month or part of a month the return is late, with a cap of 25% of the unpaid tax. However, the minimum penalty for failure to file within 60 days of the due date, including extensions, is the lesser of an indexed amount (\$510 for failure to file in 2025) or the amount of tax owed with the return.
- For failure to pay the PCORI fee, the penalty is .5% of any tax not paid by the due date for each month or part of a month the tax remains unpaid, up to 25% of the unpaid tax.

On top of the penalties, interest can be charged on unpaid excise taxes. On the other hand, in some cases, penalties may be waived if the plan sponsor has reasonable cause and the failure to pay was not due to willful neglect.

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