

SecureOne Benefit Administrators, Inc.

NEWS ALERT!

June 2012

The Patient Protection and Affordable Care Act (PPACA) or “Obamacare” is imposing a new fee to Health Insurance Carriers and Self-Funded Plans.

Brief Summary

PPACA’s new fees are being used to create a new non profit corporation, “The Patient Centered Outcome Research Institute” (PCORI). This is a healthcare organization collecting data for quality improvement and identifying marked disparities in care and outcomes for a variety of conditions. The disparities impact a number of different patient groups in this setting, based on their gender, race/ethnicity, primary language and other attributes. They want the care to be more “equitable” (PCORI Website) and want to address differences in outcomes.

The Fee

The first year of the fee is \$1 per covered life per year. The second year the fee adjusts to \$2 per covered life and then it is indexed to national length expenditures thereafter until it ends in 2019.

On April 17, 2012, the IRS imposed regulations that provided guidance on calculating the fee.

When It Starts

The fee begins in 2012 and then phases out in 2019.

For policy or plan years ending after Sept. 30th, 2012, issuers and employers sponsoring certain group health plans must pay a fee of \$1 per covered life per year. The fee adjusts to \$2 per covered life for policy or plan years ending Oct. 1, 2013, through Sept. 30, 2014. For policy or plan year ending after Sept. 30, 2014, the dollar amount in effect for such policy or plan year shall be adjusted by the Secretary of Treasury based on the percentage increase in the projected per capita amount of national health expenditures. The fee will not apply to policy or plan years ending after Sept. 30, 2019. For policy or plan year ending after Sept. 20, 2014, the dollar amount in effect for such policy or plan year shall be adjusted by the Secretary of Treasury based on the percentage increase in the projected per capita amount of national health expenditures. The fee will not apply to policy or plan years ending after Sept. 30, 2019.

Who Is Responsible For Payment?

Sponsors of self-funded plans are responsible for paying the fee, which is treated like an excise tax by the IRS. A federal excise tax return (Form 720) reporting liability for the fee must be filed by July 31 of the calendar year immediately following the last day of the plan year. (Self funded customers with questions about the filing of excise tax returns should consult with their tax advisor). Health Insurance Carriers are responsible for the fees that may result in premium increases.

Calculating The Fee

The fee is equal to the average number of covered lives for the policy year times the applicable dollar amount.

- ◆ For policy years ending on or after Oct. 1, 2012, and before Oct. 1, 2013—the applicable dollar amount is \$1.
- ◆ For policy years ending on or after Oct. 1, 2013, and before Oct. 1, 2014—the applicable dollar amount is \$2.
- ◆ For policy years ending in any fiscal year beginning on or after Oct. 1, 2014—the applicable dollar amount is the prior fiscal year’s dollar amount plus and adjustment for medical inflation.



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Determining Average Number of Lives

Fully Insured Plans

The IRS proposed four methods for determining the average number of covered lives. Issuers must use the same method consistently for the duration of any year and the same method for all policies subject to the fee.

- ◆ **Actual Count**—Count the total number of covered lives for each day of the policy year and divide by the number of days in a year.
- ◆ **Snapshot Method**—Count the number of employees on a single day (or days if consistent for each quarter) during a quarter and divide the total by the number of dates on which a count was made. The date used for each quarter must be the same (i.e., the first day, the last day).
- ◆ **NAIC Member Months Method**—The issuer determines the average number of covered lives based on member months reported to the National Association of Insurance Commissioners (NAIC) on the Supplemental Health Care Exhibit for the calendar year. The average number of lives in effect for the calendar year equals member months divided by 12.
- ◆ **State Form Method**—This method is for issuers that are not required to file the NAIC Exhibit. These issuers may determine the number of covered lives using a form that is filed with the issuer's state of domicile, if the form reports the number of covered lives in the same manner as the NAIC Supplemental Exhibit.

Self-Funded Plans

Self-funded plans may determine the average number of covered lives by using any of the following methods. Like fully insured plans, plan sponsors must use the same method consistently for the duration of any year and the same method for all policies subject to the fee.

- ◆ **Actual Count**—Count the total covered lives for each day of the plan year and divide by the number of days in the plan year.
- ◆ **Snapshot dates**—Count the total number of covered lives on a single day in a quarter (or more than one day) and divide the total by the number of dates on which a count was made. (The date or dates must be consistent for each quarter).
 - A.) **Snapshot Factor**—In case of self-only coverage, determine the sum of:
(1) the number of participants with self-only coverage, and (2) the number of participants with other than self-only coverage multiplied by 2.35.
- ◆ **Form 5500 Method**—For self-only coverage, determine the average number of participants by combining the total number of participants at the beginning of the plan year with the total number of participants at the end of the plan year as reported on the Form 5500 and divide by 2. In the case of plans with self-only and other coverage, the average number of total lives is the sum of total participants covered at the beginning and the end of the plan year, as reported on the Form 5500.

Special Counting Rule For Multiple Self-Funded Plans

Under the proposed rule, if the plan sponsor of a self-funded plan has more than one self-funded plan (e.g., one for medical, another for pharmacy) it may treat them as a single self-funded plan for purposes of this fee to avoid double counting of the members. This special counting rule only applies to self-funded plans in the proposed rule.

Determining Number of covered Lives in the First Year

For the first year of the fee, plan years beginning before July 11, 2012, and ending on or after Oct. 1, 2012, a plan sponsor may determine the average number of covered lives using any reasonable method. In the first year, fully insured plans, for example, may report only 25 percent of the number of lives it reported on the NAIC form in 2012.

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Special Rule for Health FSAs and HRAs

- ◆ If a plan sponsor only maintains a flexible spending account or a health reimbursement arrangement, then the plan sponsor may treat each participant's account as covering a single life. (The plan sponsor is not required to count spouses or other dependents.)
- ◆ If the FSA/HRA is sponsored by a plan sponsor that also has an applicable self-funded health plan (that is not a FSA or HRA), the two arrangements may be treated as one plan.

Plans or Policies Impacted

The fee applies to certain "specified health insurance" policies and includes medical policies retiree-only policies, any accident or health insurance policy (including a policy under a group health benefit plan) issued to individuals residing in the United States. This does not include:

- ◆ "Excepted benefits," as defined under HIPAA, such as stand-alone vision or dental plans
- ◆ FSA plans
- ◆ Expatriate coverage
- ◆ Stop-loss, where the issuer is liable for all losses in excess of a specified amount and where the plan sponsor retains its liability for losses.
- ◆ Indemnity reinsurance policies, where the reinsuring company accepts all or part of the risk of loss under the policy and the issuing company retains its liability for covered lives.
- ◆ Medicare
- ◆ Medicaid
- ◆ SCHIP
- ◆ Non-insurance health programs for members (spouses or dependents) of the Armed Forces or veterans.
- ◆ Federally recognized Indian Health Services.

As more clarification comes out, SecureOne will keep you updated.

Additional information can be found at:

<http://www.gpo.gov/fdsys/pkg/FR-2012-04-17/pdf/2012-9173.pdf>



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