

# BREAKING NEWS



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## For Immediate Release:

June 2013  
Employee Benefits  
Compliance Breaking News  
Volume 2013 Issue 11



## FORM 720 RELEASED FOR PAYMENT OF PATIENT-CENTERED OUTCOMES RESEARCH (PCOR) FEE

### EXECUTIVE SUMMARY

- Quarterly Federal Excise Tax Return, Form 720 recently released for payment of PCOR fee
- Plans subject to the PCOR fee: Medical plans, including HRAs and some FSAs
- First PCOR fee due by July 31, 2013 for plan years ending between October 1 and December 31, 2012 at a rate of one dollar per enrolled member (counting enrolled spouses and dependents)



The Patient Protection and Affordable Care Act imposes fees on insurance carriers and in some cases plan sponsors of self-funded medical plans to help fund the Patient-Centered Outcomes Research (PCOR) Institute. PCOR fees are due annually, using Form 720, by July 31 of the year following the calendar year in which the applicable plan year ended, beginning with plan years ending on or after October 1, 2012. The fee amount is based on the average number of lives covered under the plan (including enrolled spouses and dependents). The PCOR fee is temporary and set to expire with plan years ending on or after October 1, 2019.

## PURPOSE

- To fund the private, non-profit entity, called the Patient-Centered Outcomes Research (PCOR) Institute. Funds will go toward evidence-based medicine by evaluating and comparing health outcomes and clinical effectiveness, risks and benefits of medical treatments, services, procedures, drugs and other strategies that treat, manage, diagnose or prevent injury or illness

## PLANS SUBJECT TO THE FEE

- Most fully-insured and self-funded medical plans
- Health Flexible Spending Accounts (FSAs), that are not HIPAA-excepted benefits
- Retiree-only health plans
- Health Reimbursement Arrangements (HRAs)

Note: Plan sponsors of self-funded plans with more than one arrangement that include an HRA or health FSA in addition to major medical coverage, that have the same plan year, are treated as having a single self-funded plan with only one fee obligation

## PLANS EXEMPT FROM THE FEE

- Employee Assistance Programs
- Wellness programs
- Disease management programs
- Certain health FSAs (all dependent care flexible spending accounts are exempt)
- Fully-insured plans covering a primary insured who does not reside in the United States

## COUNTING METHODS

Fees will be charged on a “per covered life” basis (for each person covered under the plan including spouses and dependents). Where multiple self-funded plans cover one life, so long as these plans have the same plan year, the plan sponsor would only be subject to a single fee for the covered life, rather than multiple fees for that covered life. There are three options for determining the number of covered lives for which the fee is due.

### The Actual Count Method

- Add the total number of lives covered for each day of the policy year, and divide by the number of days in the policy year

### The Snapshot Method

- Add the number of covered lives on a specified day during the first, second, or third month of each quarter
- Total the sum of the number of covered lives from those dates, and divide by the number of dates used

Note: An alternative to counting all of the covered lives, which includes spouses and dependents, is provided. Carriers and self-funded plan sponsors may count the number of self-only covered employees and add that number to the number of employees with family coverage multiplied by 2.35, to account for families.

The Form 5500 Method (only available if a Form 5500 is filed and filing is completed on or before July 31)

- Plans offering self only coverage: The plan sponsor counts the number of participants at the beginning and end of the plan year, adds that number together, and divides the sum by two
- Plans offering family coverage: The plan sponsor adds the number of participants on the first day of the plan year, and the last day of the plan year (without dividing by two)

## **PAYMENT OF FEE**

- Fully-insured plans: Carrier is responsible for paying the fee associated with the fully-insured plan
- Self-funded plans: Plan sponsor is responsible for paying the fee associated with an employee's self-funded plan
- Paid annually no later than July 31 of the year following the calendar year in which the applicable plan year ended
  - Example: A plan year that runs from February 1, 2012 through January 31, 2013 would be required to submit a Form 720 along with payment by July 31, 2014

Note: If a plan sponsor / carrier is not required to file quarterly, Form 720, then they are only required to report using Form 720 for purposes of paying the PCOR fee annually in the second quarter.

## **SPECIAL RULES FOR PAYMENT OF THE FEE FOR 2012 PLAN YEARS ONLY**

- For plan years beginning before July 11, 2012, and ending on or after October 1, 2012, plan sponsors may determine the average number of lives covered under the plan for the plan year using any reasonable method
- For plan years ending after October 1, 2012, a plan sponsor may begin counting lives from May 14, 2012 (30 days after the proposed regulations were published by the Federal Government), rather than going back to the first day of the plan year

## **SPECIAL COUNTING RULES FOR HRAs (& HEALTH FSAs)**

Plans are permitted to count one covered life for each employee (allowing the exclusion of spouses and dependents for counting purposes) with an HRA and in some cases health FSAs so long as they have the same plan year. HRAs will generally fall into three categories:

### Stand-alone HRAs

If a plan sponsor has no applicable self-funded plans, the sponsor must pay the fee based on the average number of lives covered by the HRA, but only counting one life per participant (allowing exclusion of spouses and dependents for counting purposes).

### HRAs integrated with insured coverage

If a plan sponsor has other coverage, but the other coverage is fully-insured, the plan sponsor will pay a fee for the HRA fee, in addition to the carrier's payment of the fee for the fully-insured plan. The HRA's covered lives count will be determined upon the one life per participant rule, evidenced above. (In this respect, the plan sponsor will disregard those lives covered solely under the fully-insured option when counting the number of lives for the HRA).

HRAs integrated with self-funded coverage

If the same plan sponsor has another applicable self-funded health plan with the same plan year, then each person covered under both plans will only be counted once, under the standard three counting methods. However, if an HRA participant is not participating in the self-funded health plan, then the one life per participant rule will apply to those HRA participants.

## **ACTION**

Plan sponsors of self-funded plans must choose one of the three methods listed above to count how many covered lives they have for each of their self-funded plans. In addition, a plan sponsor with different plan years for different plans should consider aligning the plan years in order to take advantage of the special counting rules. Self-funded plan sponsors including plan sponsors of HRAs and most FSAs must file Form 720 and pay the fee no later than July 31 of the year following the calendar year in which the applicable plan year ended, beginning with plan years ending on or after October 1, 2012. Regulations do not specifically permit or include rules for third-party reporting or payment of these fees on behalf of the plan.

**For access to the Quarterly Federal Excise Tax Return, Form 720, go to:**

<http://www.irs.gov/pub/irs-pdf/i720.pdf>

## **Contacts**

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**Lisa R. Nelson, Esq.**

Director  
Compliance & Regulatory Affairs  
(858) 875-3017  
[lisan@barneyandbarney.com](mailto:lisan@barneyandbarney.com)

**Christopher K. Bao, Esq.**

Compliance Manager, Orange County  
Compliance & Regulatory Affairs  
(949) 540-6924  
[chris.bao@barneyandbarney.com](mailto:chris.bao@barneyandbarney.com)