



I'm told that our township may be responsible for fees under federal law called "PCORI." Can you explain?

Unless your township pays for health insurance for its employees, these fees will not apply. For townships that provide "fully insured benefits"—those plans that rely solely on the insurance company to provide health-related benefits—these fees will be collected and paid by the insurance company. For townships that have a self-insured portion of health care, dental or optical benefits, these fees may apply to the non-insured portion of the benefit, and it is the plan sponsor's (township) responsibility to calculate and pay the benefits.

Background:

The Patient Center Outcomes Research Institute (PCORI), created by the Patient Protection and Affordable Care Act (ACA), was created to promote research to evaluate and compare the effectiveness and outcomes of various medical treatments, services, procedures and drugs. PCORI is funded, in part, by fees assessed on health insurers and plan sponsors of self-insured group health plans.

For example:

- A. Township employees are covered by an insured plan, with a deductible. The plan has a \$5,000 deductible that is first applied prior to the insurance company paying a benefit. The township makes contributions to a *health reimbursement account* (HRA) to provided funding for the deductible. The IRS has ruled that these "integrated HRAs"—in which the HRA is intended to work along with the health insurance to provide a fully insured plan—**are subject** to the PCORI fee. This is true even though the insurance company is also paying the fee.
- B. Township employees are covered by an insured plan with no deductible. The insurance company alone would be required to pay the fee.
- C. Township employees are covered by an insured plan, with a deductible. The plan has a \$5,000 deductible that is first applied prior to the insurance company paying a benefit. Township employees pay the deductible through a *flexible spending account* (FSA) under IRC Section 125, with no employer funding. In this case, the insurance company would be required to pay the fee; **no PCORI fees** would be assessed against employee contributions to the FSA (flexible spending account).

How and when are the fees due:

If your township has a plan subject to these fees, the initial fee is \$1 times the average number of "covered lives" for that first plan year, and \$2 per covered life for the plan year ending after Sept. 30, 2013. Fees for subsequent years are subject to indexing. The PCORI fee will not be assessed for plan years

ending after Sept. 30, 2019, which means that for a calendar-year plan, the last year for assessment is the 2018 calendar year. These fees are to be reported on Form 720, available on www.irs.gov, and can be paid with the form or through the Electronic Federal Tax Payment System (EFTPS).

Townships should seek the advice of a qualified professional, such as labor counsel or plan administrator, to determine if it is subject to these fees, how to calculate them, and how and when to pay.

Additional comments:

- State and local governments, including townships, are subject to these fees, providing they maintained non-fully insured plans, as described above. This includes Voluntary Employee Benefit Associations (VEBAs) established by the township.
- The ACA has very specific methods of calculating the average number of "covered lives" to determine the amount due. Visit www.irs.gov (search for "PCORI") for specifics. Townships should discuss the specifics with their plan advisor or a qualified plan actuary.
- Plan sponsors that maintain one self-insured arrangement providing major medical benefits and a separate self-insured arrangement providing prescription drug benefits with the same plan years may treat the two as one applicable self-insured health plan. The same rule applies to plan sponsors that provide a self-insured major medical plan and a health reimbursement arrangement (HRA) with the same plan year—the two arrangements are treated as one self-insured health plan for purposes of assessing the PCORI fee.
- If a plan is partially self-insured and partially insured, the employer must treat the non-insured portion as a self-insured plan for purposes of the fee. Affected plans include major medical plans, prescription drug plans, retiree plans and dental vision HRAs, and employer contributions to FSAs.

Information provided in *Financial Forum* should not be considered legal advice, and readers are encouraged to contact their township auditor and/or attorney for advice specific to their situation.



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