



HEALTH CARE REFORM: Legislative Brief

Health Care Reform Fees – Special Rules for HRAs

The Affordable Care Act (ACA) made a variety of changes affecting health reimbursement arrangements (HRAs). To cover the cost of some of these changes, ACA imposed a number of fees on health insurance issuers and sponsors of self-insured health plans. These fees include:

- Patient-Centered Outcomes Research Institute fees (PCORI fees); and
- Reinsurance fees.

Both of these fees are calculated based on the average number of covered lives under the plan. For plan sponsors that maintain multiple self-insured arrangements (such as an HRA in addition to major medical coverage), this could have resulted in having to pay each fee twice for each covered life, effectively doubling the amount of these fees. To avoid this result, the IRS developed special rules for applying PCORI fees and reinsurance fees to these types of plans.

PCORI FEES FOR HRAS

ACA established a private, nonprofit corporation called the Patient-Centered Outcomes Research Institute (Institute) to conduct comparative clinical effectiveness research. ACA requires health insurance issuers and sponsors of self-insured health plans to pay fees to help finance the Institute's research. These fees are widely known as **PCORI fees**, although they may also be called PCOR fees or comparative effectiveness research (CER) fees.

PCORI fees apply for plan years ending on or after **Oct. 1, 2012**, and before **Oct. 1, 2019**. For calendar year plans, the research fees will be effective for the 2012 through 2018 plan years. The first possible payments will be due on **July 31, 2013**.

For plan years ending before Oct. 1, 2013, the fee is **\$1 per covered life** under the plan. For plan years ending on or after Oct. 1, 2013, and before Oct. 1, 2014, the fee increases to **\$2 per covered life**. For plan years ending on or after Oct. 1, 2014, the fee amount will grow based on increases in the projected per capita amount of National Health Expenditures.

On Dec. 5, 2012, the Internal Revenue Service (IRS) issued [final regulations](#) that address how PCORI fees apply to HRAs. Although the IRS did not provide an overall exemption from the research fees for HRAs, they outline a special rule for plan sponsors that provide an HRA and another self-insured health plan providing major medical coverage.

Under the special rule, an HRA is *not* subject to a separate research fee if the plan sponsor also maintains another **self-insured plan** providing major medical coverage, as long as the HRA and the plan have the same plan year. This allows the plan sponsor to treat the HRA and the major medical plan as one applicable self-insured health plan for purposes of calculating the research fee. This special rule applies *only if* the HRA and the self-insured plan:

- Are established and maintained the **same plan sponsor**; and
- Have the **same plan year**.

In this case, the plan sponsor will be required to pay the PCORI fee only once with respect to each life covered under the HRA and the other plan, because the same life covered under each arrangement would count as only one covered life under the plan for purposes of calculating the fee.



However, a plan sponsor may not treat an HRA and a **fully-insured group health plan** as a single plan for purposes of calculating the PCORI fee. In this case, the plan sponsor of the HRA and the issuer of the insured plan will *both be subject to the research fees*, even though the HRA and insured group health plan are maintained by the same plan sponsor. This means that there may be two fee payments for the same lives.

REINSURANCE FEES FOR HRAS

ACA established a risk-spreading program, called the **transitional reinsurance program**, to help stabilize premiums for coverage in the individual market during the first three years of Exchange operation (2014 through 2016) when individuals with higher-cost medical needs gain insurance coverage. ACA requires health insurance issuers and plan sponsors of self-insured group health plans to pay fees to support the reinsurance program.

No later than **Nov. 15** of 2014, 2015 and 2016, issuers and plan sponsors would be required to submit an annual enrollment count to the Department of Health and Human Services (HHS). Within 15 days of this submission or by **Dec. 15**, whichever is later, HHS would notify each issuer or plan sponsor of the amount of its required reinsurance contribution. The issuer or plan sponsor would be required to remit this amount to HHS **within 30 days** after the date of HHS' notification.

The reinsurance program's fees will be based on a **national contribution rate**, which HHS will announce annually. For 2014, HHS proposes a national contribution rate of **\$5.25 per month (\$63 per year)**. An issuer's or plan sponsor's reinsurance fee would be calculated by multiplying the average number of covered lives (employees and their dependents) during the benefit year for all of the entity's plans and coverage that must pay contributions, by the national contribution rate for the benefit year. Thus, the annual contribution for a group health plan with 150 covered lives would be \$9,450 per year (150 x \$63 = \$9,450).

On Dec. 7, 2012, HHS released [proposed regulations](#) that describe which plans and coverages would be subject to the reinsurance fee. Contributions to the reinsurance program are only required for plans that provide major medical coverage. Major medical coverage is coverage for a broad range of services and treatments, including diagnostic and preventive services, as well as medical and surgical conditions in various settings, such as inpatient, outpatient and emergency room settings.

In addition, the proposed regulations state that **HRAs that are integrated with major medical coverage** would be excluded from reinsurance fees. This applies regardless of whether the major medical coverage is self-insured or fully-insured. However, reinsurance fees would be required for the group health plan providing major medical coverage.

An HRA is considered integrated with an employer's group health coverage if, under the terms of the HRA, the HRA is available only to employees who are covered by employer-sponsored coverage that meets ACA's annual limit requirements.

EXCEPTED BENEFITS

Coverage that consists solely of "excepted benefits" under HIPAA is not subject to the PCORI or reinsurance fees. This includes, for example, stand-alone dental and vision plans, accident-only coverage, disability income coverage, liability insurance, workers' compensation coverage, credit-only insurance or coverage for on-site medical clinics.

Thus, HRAs will not be required to pay PCORI fees or reinsurance fees if substantially all of the coverage is considered excepted benefits.



FEE COMPARISON CHART

	PCORI FEES	REINSURANCE FEES
Applies To	Health insurance issuers and sponsors of self-insured health plans	Health insurance issuers and sponsors of self-insured group health plans
Effective Date	Plan years ending on or after Oct. 1, 2012 , and before Oct. 1, 2019 . For calendar year plans, fees will be effective for the 2012 through 2018 plan years. The first possible payments will be due on July 31, 2013 .	Calendar years 2014 through 2016
Amount	Calculated as follows: <ul style="list-style-type: none"> • \$1 per covered life for plan years ending before Oct. 1, 2013 • \$2 per covered life for plan years ending on or after Oct. 1, 2013, and before Oct. 1, 2014 • For plan years ending on or after Oct. 1, 2014, the fee amount will grow based on increases in the projected per capita amount of National Health Expenditures 	Calculated for each issuer or plan sponsor using the following formula: $\frac{\text{Average Number of Covered Lives} \times \text{National Contribution Rate}}{\text{Reinsurance Fee}}$ <p>The national contribution rate will be announced by HHS annually. For 2014, HHS proposes a national contribution rate of \$5.25 per month (\$63 per year).</p>
Special Rule for HSAs	<p>HRA Integrated with Self-insured Plan:</p> <p>The HRA is <i>not</i> subject to a separate research fee, as long as the HRA and the plan:</p> <ul style="list-style-type: none"> • Are established and maintained by the same plan sponsor; and • Have the same plan year. <p>HRA Integrated with Fully-insured Plan:</p> <p>The plan sponsor of the HRA and the issuer of the insured plan will <i>both</i> be subject to the research fees, even though the HRA and insured group health plan are maintained by the same plan sponsor.</p>	<p>HRAs Integrated with Major Medical Coverage:</p> <p>Excluded from reinsurance fees, regardless of whether the major medical coverage is self-insured or fully-insured.</p>

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