



Compliance Services Alert

June 7, 2021

It's that time of year again: PCORI filing due to IRS by Aug. 2

Much in the employee benefits world has changed in 2020 and 2021 due to the pandemic, but one of the "old faithful" reporting obligations is one you may need to prepare for in the coming weeks: the Patient-Centered Outcomes Research Institute (PCORI) filing and fee. The Affordable Care Act imposes this annual per-enrollee fee on insurers and sponsors of self-funded medical plans to fund research into the comparative effectiveness of various medical treatment options.

Lockton comment: The typical due date for the PCORI fee is July 31, but because that date falls on a Saturday in 2021, the effective due date is pushed to the next business day, which is Aug. 2.

The filing and payment due by Aug. 2, 2021, is required for policy and plan years that ended during the 2020 calendar year. For plan years that ended Jan. 1, 2020 – Sept. 30, 2020, the fee is \$2.54 per covered life. For plan years that ended Oct. 1, 2020 – Dec. 31, 2020 (including calendar year plans that ended Dec. 31, 2020), the fee is calculated at \$2.66 per covered life.

Insurers report on and pay the fee for fully insured group medical plans. For self-funded plans, the employer or plan sponsor submits the fee and accompanying paperwork to the IRS. Third-party reporting and payment of the fee (for example, by the self-insured plan sponsor's third-party claim payor) is not permitted.

Lockton comment: An employer that sponsors a self-insured health reimbursement arrangement (HRA) along with a fully insured medical plan must pay PCORI fees based on the number of employees (dependents are not included in this count) participating in the HRA, while the insurer pays the PCORI fee on the individuals (including dependents) covered under the insured plan. Where an employer maintains an HRA along with a *self-funded* medical plan and both have the *same plan year*, the employer pays a single PCORI fee based on the number of covered lives in the self-funded medical plan and the HRA is disregarded.

PCORI fee reporting and payment

The IRS collects the fee from the insurer or, in the case of self-funded plans, the plan sponsor in the same way many other excise taxes are collected. The fees are reported on and paid with IRS Form 720. Again, the filing and payment is typically due by July 31 of the year following the last day of the plan year to which the payment relates, but this year the due date pushes to Aug. 2.

IRS regulations provide three options for determining the average number of covered lives: actual count, snapshot and Form 5500 method. For more information on these methods, see our [alert](#) on this topic. Lockton account service teams can help you determine which of these methods is most appropriate on a client-by-client basis.

The U.S. Department of Labor says the fee cannot be paid from ERISA plan assets, except in the case of union-affiliated multiemployer plans. In other words, the PCORI fee must be paid by the plan sponsor; it cannot be paid in whole or part by participant contributions or from a trust holding ERISA plan assets. The PCORI expense should not be included in the plan's cost when computing the plan's COBRA premium. The IRS has indicated the fee is, however, a tax-deductible business expense for sponsors of self-funded plans.

Lockton comment: Although the DOL's position relates to ERISA plans, please note the PCORI fee applies to non-ERISA plans as well and to plans to which the ACA's market reform rules don't apply, like retiree-only plans.

How to file IRS Form 720

The filing and remittance process to the IRS is straightforward and largely unchanged from last year. On Page 2 of Form 720, under Part II, the employer designates the average number of covered lives under its "applicable self-insured plan." As described above, the number of covered lives is multiplied by the applicable per-covered-life rate (depending on when in 2020 the plan year ended) to determine the total fee owed to the IRS.

The Payment Voucher (720-V) should indicate the tax period for the fee is "2nd Quarter."

Form **720-V** (2021)

▼ Detach here and mail with your payment and Form 720. ▼

<p>Form 720-V Department of the Treasury Internal Revenue Service</p>	<p>Payment Voucher</p> <p>► Don't staple or attach this voucher to your payment.</p>	<p>OMB No. 1545-0023</p> <p style="font-size: 2em; font-weight: bold;">2021</p>				
<p>1 Enter your employer identification number (EIN). See instructions.</p>	<p>2 Enter the amount of your payment. ► Make your check or money order payable to "United States Treasury."</p>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%; border-bottom: 1px solid black;">Dollars</td> <td style="width: 20%; border-bottom: 1px solid black;">Cents</td> </tr> <tr> <td style="height: 30px;"></td> <td style="height: 30px;"></td> </tr> </table>	Dollars	Cents		
Dollars	Cents					
<p>3 Tax Period</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; text-align: center; padding: 5px;"><input type="radio"/> 1st Quarter</td> <td style="width: 50%; text-align: center; padding: 5px;"><input type="radio"/> 3rd Quarter</td> </tr> <tr> <td style="text-align: center; padding: 5px;"><input checked="" type="radio"/> 2nd Quarter</td> <td style="text-align: center; padding: 5px;"><input type="radio"/> 4th Quarter</td> </tr> </table>	<input type="radio"/> 1st Quarter	<input type="radio"/> 3rd Quarter	<input checked="" type="radio"/> 2nd Quarter	<input type="radio"/> 4th Quarter	<p>4 Enter your business name (individual name if sole proprietor).</p> <p>Enter your address.</p> <p>City or town, state or province, country, and ZIP or foreign postal code</p>	
<input type="radio"/> 1st Quarter	<input type="radio"/> 3rd Quarter					
<input checked="" type="radio"/> 2nd Quarter	<input type="radio"/> 4th Quarter					

Lockton comment: Failure to properly designate "2nd Quarter" on the voucher will result in the IRS's software generating a tardy filing notice, with all the incumbent aggravation on the employer to correct the matter with IRS.

You missed a past PCORI payment. Now what?

An employer that overlooks reporting and payment of the PCORI fee by its due date should immediately, upon realizing the oversight, file Form 720 and pay the fee (or file a corrected Form 720 to report and pay the fee, if the employer timely filed the form for other reasons but neglected to report and pay the PCORI fee). Remember to use the Form 720 for the appropriate tax year to ensure that the appropriate fee per covered life is noted.

The IRS might levy interest and penalties for a late filing and payment, but it has the authority to waive penalties for good cause. The IRS's penalties for failure to file or pay are described [here](#).

Lockton comment: We have seen the IRS specifically audit employers for PCORI fee payment and filing obligations. Be sure, if you are filing with respect to a self-funded program, to retain documentation establishing how you determined the amount payable and how you calculated the participant count for the applicable plan year.

Ethan McWilliams, MBA
AVP, Senior Compliance Analyst
Compliance Services

Not legal advice: Nothing in this alert should be construed as legal advice. Lockton may not be considered your legal counsel, and communications with Lockton's Compliance Services group are not privileged under the attorney-client privilege.

© 2021 Lockton Companies

Lockton Benefits | 444 West 47th Street | Suite 900 | Kansas City | MO | 64112
