

The HRA Newsletter

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IRS Issues Final Regulations Regarding Fees on Health Insurance Policies and Self-Insured Plans, which includes Health Reimbursement Arrangements (HRAs) and Flexible Spending Accounts (FSAs)

On December 6, 2012, the Internal Revenue Service published final regulations that implement and provide guidance on the fees imposed by the Patient Protection and Affordable Care Act (ACA) to fund the Patient-Centered Outcomes Research Trust Fund (PCOR). The regulations are effective December 6, 2012, and apply to policy and plan years ending on or after October 1, 2012. The fee is temporary and expires for plan years that end after October 1, 2019.

What health insurers are subject to the fee?

The final regulations state the fee applies to insurers that issue a “specified health insurance policy.” The term “specified health insurance policy” is defined as; “any accident and health insurance policy (including a policy under a group health plan) issued with respect to individuals residing in the United States.”

While there are some exceptions, this fee will be applicable to plan sponsors of a Health Reimbursement Arrangements (HRAs) and Flexible Spending Accounts (FSAs). For FSAs where there is no employer contribution, the fee does not apply. The fee would apply where the employer’s contribution exceeds two times the employee’s salary reduction election for the year (or, if greater, the amount of the employee’s salary reduction election for the health FSA for the year, plus \$500).

What is the fee?

The IRS has implemented a fee schedule for each assessment year. For HRAs and applicable FSAs with plan years ending on or after October 1, 2012, and before October 1, 2013, the fee is one dollar (\$1.00) multiplied by the average number of participants in the plan.

For the second year, the fee increases to two dollars (\$2.00) multiplied by the average number of participants in the plan. For each subsequent assessment year, the fee will be indexed according to the increase in per capita national health expenditures as determined by the Department of Health and Human Services.

How is a participant defined?

For HRAs, we expect that a participant will be defined as any employee, or former employee who had an account balance during the assessment period, but are confirming with our outside counsel as the definition of a participant is somewhat unclear.

For applicable FSAs, we expect that a participant will be defined as any active employee who received an employer contribution during the assessment period, but are confirming with our outside counsel as the definition of a participant is somewhat unclear.

How is the average number of participants in the plan calculated?

There are three methods which can be used to determine the average number of participants in the plan for HRA and applicable FSAs:

- The first method, known as the actual count method, is determined by adding the number of participants for each day of the plan year and dividing by 365.
- The second method, the snap-shop method, is determined by totaling the number of participants for one date each quarter, or an equal number of dates for each quarter, and dividing the total by the number of dates on which a count was made.
- The final method, the 5500 method, is determined by using the actual number of participants reported on the Form 5500 (if applicable).

Please be advised that MidAmerica will calculate the most favorable average number of participants for each plan sponsor.

What is the reporting and payment deadline?

The final regulations require an issuer of a specified health insurance policy and plan sponsor of an applicable self-insured health plan, including HRAs and applicable FSAs, to report and pay the PCOR fee no later than July 31 of the year following the last day of the policy or plan year. The fee is reported and paid using IRS Form 720.

Form 720 must be filed by the plan sponsor directly. The IRS will not allow the form to be filed by a third party, such as MidAmerica. As a result, for those clients that do not already file Form 720, MidAmerica will assist the plan sponsor in completing the form by providing all necessary information, including instructions.

Currently, Form 720 is not updated to provide for the PCOR fee. We expect an update to be released by the IRS around April, 2013. At such time, we will contact our clients to provide instructions and to discuss the possibility of providing a signature ready form if desired. For those clients who already file Form 720 for other excise taxes, MidAmerica will provide the average number of participants to be included on the form.

Please note that the majority of our clients will not be required to file the form and pay the fee until July 31, 2014. However, some of our clients do have a December 31, 2012 year-end. For those, you should expect to receive notice directly in January.

Questions?

Should you have any questions or concerns related to the PCOR fees, please do not hesitate to reach out to Tammy Catlin. Tammy can be reached directly by phone at 1-800-430-7999 ext. 166 or by email at tammy.catlin@midamerica.biz.



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