

May 7, 2024

Health Care Reform: Impact of ACA Fees (PCORI Fee) on Via Benefits™ Plan Sponsors— Payment Due July 31

The Patient Protection and Affordable Care Act (PPACA or ACA) created the **Comparative effectiveness research fee** (also called the **PCORI Fee**).

Following is a description of how this fee may apply to plan sponsors offering retiree health coverage through the Medicare Marketplace and HRA Program, also known as Via Benefits.

Plan sponsors of group health plans, including Health Reimbursement Arrangements (HRAs, i.e., health reimbursement accounts), are required to pay the PCORI Fee.

- *For HealthFlex:* With respect to the active participant, Wespath—as trustee of the multiple-employer plan—will manage administration of the **PCORI Fee**.
- *For plan sponsors that have adopted the Via Benefits program for their retired participants:* Wespath will *not* handle administration of the **PCORI Fee** for HRAs managed through Via Benefits. Instead, plan sponsors will be responsible for reporting and paying the PCORI Fee for these Via Benefits HRAs, through submission of **Form 720** to the Internal Revenue Service (IRS).

PCORI Fee Schedule

The PCORI Fee applies for each plan year that ends on or after October 1, 2012, and before October 1, 2029. (The PCORI Fee expires after October 2029.) For calendar-year arrangements, such as the Via Benefits HRAs that a plan sponsor may provide, *the PCORI Fee payment for the 2023 plan year is due by July 31, 2024.*

The amount of the PCORI Fee is:

- **January 1–December 31, 2023: \$3.22 per covered life (due by July 31, 2024)—applies to all plan sponsors that sponsored Via Benefits and funded HRAs for the 2023 plan year.**

Calculating the Average Number of Lives

The PCORI Fee is based generally on the average number of covered lives (i.e., participant and his or her covered spouse and dependents) during the plan year, including individuals who are on continuation coverage but are not yet age 65 and Medicare-eligible. Only individuals residing in the U.S. must be counted. However, there is a special rule for HRAs. The PCORI regulations state that, if a plan sponsor does not establish or maintain an applicable self-insured health plan other than an HRA, the plan sponsor may treat each participant's HRA as covering a single life (i.e., counting primary participants but not counting spouses or dependents). Under this rule, plan sponsors of Via Benefits HRAs will only count a single life for each separate HRA for purposes of the PCORI Fee. For example, if the plan sponsor maintains 75 separate HRAs (50 for retired participants together with their spouses and 25 for surviving spouses), the plan sponsor will pay \$241.50 in PCORI Fees for calendar year 2023 (\$3.22 per HRA for 75 HRAs).

Plan sponsors should use one of the following methods to calculate the covered lives subject to the PCORI Fee:

- **Actual Count Method:** Plan sponsor calculates the sum of the covered participant lives for each day of the plan year and divides the sum by the number of days in the plan year (i.e., 365).
- **Snapshot Count Method:** Plan sponsor adds the total number of covered primary participant lives on one selected date in each quarter of the plan year, or an equal number of dates for each quarter, and divides the total covered lives by the number of dates on which a count was made. Each date used during the second, third and fourth quarter must be within three days of the date in that quarter that corresponds to the date used for the first quarter, and all dates must fall with the same plan year.

Plan sponsors must use only one method in each year, but are not required to use the same method from year to year.

Plan sponsors may contact Via Benefits to determine the number of covered lives under the chosen method.

Paying PCORI Fees to the IRS

Plan sponsors must submit IRS *Form 720* “Quarterly Federal Excise Tax Return” to report the PCORI Fees and make annual payments.

On or before **July 31, 2024**, Via Benefits plan sponsors must complete *Form 720* and submit it to the IRS, along with payment for the PCORI Fee for its covered lives with Via Benefits HRAs in 2023. There are penalties related to late filing of the *Form 720* or late payment of the PCORI Fee, which may be waived or abated if the plan sponsor has reasonable cause and the failure was not due to willful neglect.

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