



Form 720 Reporting Requirements HRA Comparative Effectiveness Research Fees

Background on the HRA Research Fee

HRA Plan Sponsors (Employers) and "SOME" Section 125 Flexible Spending Account Plan Sponsors must pay an annual fee (*Section 4376 of the Internal Revenue Code*). The fee is referred to as the "Comparative Effectiveness Research (PCORI) Fee". The fee is used to fund governmental research. ACA created the "Patient-Centered Outcomes Research Institute (PCORI)" to evaluate the relative effectiveness of various medical treatments and procedures.

The IRS determined an HRA falls under the "self-insured health plans" definition. The fee assessed is \$1.00 per employee for HRA's the first year, and \$2.00 per employee the second year. Thereafter, the fee will be indexed for inflation. For insured plans, the fee is paid by the Insurance Carrier, and for self-funded plans the fee is paid by the plan sponsor (Employer). HRA's and FLEX Plans are treated a bit different than other self-insured plans having to pay the PCORI Fee. Most all HRA's and some FLEX plans pay the \$1.00 fee for each employee enrolled in the plan. A self-insured Group Health Plan – the plan sponsor would have to pay \$1.00 for each participant in the plan – this means that the fee \$1.00 for each employee plus one dollar for each family member (spouse and children) the first year.

PCORI HRA Fee

HRA plans that are not integrated with another applicable self-funded medical plan (Stand Alone HRA) must pay the fee.

The research fees go into effect for plan years ending on or after October 1, 2012 and before October 1, 2019. The fee will be adjusted each year as follows:

- **HRA Plan years ending October 1, 2012 – September 30, 2013:** \$1 multiplied by the average number employees covered under the HRA
- **HRA Plan years ending October 1, 2013 – September 30, 2014:** \$2 multiplied by the average number of employees covered under the HRA. s
- **HRA Plan years ending October 1, 2014 and beyond:** to be determined
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For HRAs that must comply, there is a special rule that you would only count one covered life for each employee. Thus, a family of four covered by an HRA would result in only a \$1.00 fee (\$1.00 x the employee-participant only).

Example: A 15 Employee HRA would Pay a \$15 Annual Fee for a HRA plan ending between October 1, 2012 – September 30, 2013

Employers Must File Form 720 Annually to Report and Pay the Fees

HRA plans will only be required to report and pay fees annually via [Form 720](#), due by **July 31 each year**.



Who Pays the PCORI FEE?

The insurance company has to pay the fee for fully- insured group health plans. **The plan sponsor (Employer) has to pay the PCORI fee** for self-insured group health plans:

- HRAs are self-insured health plans, subject to PCORI fees. Even if the HRA is “integrated” with the insured group Health Plan, a separate HRA PCORI fee must be paid by the employer.
 - If the HRA is bundled with a self-insured major medical plan (e.g., PPO or HDHP) it is not subject to a separate PCORI fee. If the HRA is bundled with a fully-insured major medical plan is subject to a separate fee (calculated by including only employees--not dependents- in the total participant count). The reason is that the PCORI fee applies separately to insured and self-funded plans, and the carrier pays the fee for an insured plan while the plan sponsor pays the fee for a self-funded plan.
- **Most FSAs** are “excepted benefits” and are most often not subject to PCORI fees. However, **if there is an employer FSA contribution that exceeds the greater of \$500 or twice the employee’s salary reduction,** then the FSA loses its “excepted” status and the employer will have to pay the PCORI Fee.
 - Health FSAs (HFSAs) that are “excepted benefits” under IRC section 9832(c) are HFSAs under which the maximum benefit for the year does not exceed two times the participant’s salary reduction election for the year, or, if greater, the participant’s salary reduction election plus \$500; and the employee has other regular medical coverage (that is not an excepted benefit) available under a group health plan of the employer for that year.

Calculating the “Average Number of Lives Covered”

For self-insured plans the Plan Sponsors (Employer) will make the calculation – selecting from one of the following calculation methods:

- Actual count method
 - The sum of lives covered for each day of the plan year, divided by the number of days in the plan year
- Snapshot method
 - In general, the sum of the total of lives covered on a date during the first, second or third month of each quarter of the plan year divided by the number of dates on which a count was made
- Form 5500 method
 - The number of participants, reported on the Form 5500 (the number of participants covered on the HRA plan on the first day of the plan year

When is the Fee due?

The fee is to be paid annually with Tax Form 720 (even though this form is otherwise used for quarterly filings of Federal taxes) and is due by July 31 of the calendar year immediately following the last day of the policy or plan year. The Insurance Company will file and pay for fully insured plans. The Plan Sponsor (Employer) is the responsible for paying the PCORI Fee for self-insured plans, the HRA and possibly the Flex Plan.



Late fees that apply to filing Form 720 (Quarterly Federal Excise Tax Return) by July 31 deadline will apply to the PCORI Fee ... if the employer has good cause for not paying the fee on time (by July 31st) the fee may be waived, but in most cases, if the employer is not aware of the requirement or otherwise did not pay the fee, the late filing penalty will apply.

When is a Health FSA or an HRA considered an excepted benefit?

Health FSA:

A health FSA is considered an excepted benefit for a “class of participants” if the health FSA is a health FSA under Code Section 106(c)(2) and satisfies two conditions:

- **Maximum Benefit Condition:** The maximum benefit payable under the health FSA to any participant in the class for a year cannot exceed two times the employee’s salary reduction election under the health FSA for the year (or, if greater, the amount of the employee’s salary reduction election for the health FSA for the year, plus \$500), as provided in Treasury Regulations Section 54.9831-1(c)(3)(v)(B); DOL Regulations Section 2590.732(c)(3)(v)(B); and HHS Regulations Section 146.145(c)(3)(v)(B); and
- **Availability Condition:** Other non excepted group health plan coverage (e.g., major medical coverage) must be made available for the year to the class of participants by reason of their employment, as provided in Treasury Regulations Section 54.9831-1(c)(3)(v)(A); DOL Regulations Section 2590.732(c)(3)(v)(A); and HHS Regulations Section 146.145(c)(3)(v)(A).
- Neither the regulations nor the preamble to the regulations explains what is meant by the term “class of participants.” The term appears to preclude a “participant-by-participant” approach to determining whether benefits under a health FSA are excepted benefits.

Examples of Health FSA Funding That Meet the Maximum Benefit Condition:

- A one-for-one employer match (employer \$600, employee \$600).
- An employer contribution of \$500 or less (employer \$500, employee \$200).

Examples of Health FSA Funding That Do Not Meet the Maximum Benefit Condition:

- An employer contribution of more than \$500, if the employee contributes \$500 or less (employer \$600, employee \$400).
- An employer contribution in excess of a one-to-one match, if the employee contributes more than \$500 (employer contributes \$700, employee contributes \$600).

Remember: Health FSAs funded exclusively by employee salary reduction contributions (with annual coverage capped by the amount of the annual salary reduction election) will, by definition, satisfy the Maximum Benefit Condition.

HRA: A 100% employer-paid stand-alone HRA with an annual limit less than or equal to \$500 and no carryovers will be considered an excepted benefit if the employer makes major medical insurance available to all employees who are eligible for the HRA. This is the same requirement as provided above for Health FSAs. This is because such a HRA may be considered a health FSA and would qualify as an excepted benefit. Likewise, a retiree-only HRA or limited-purpose HRA (i.e., that provides only vision and dental benefits) would also be considered an excepted benefit



The above HIPAA exceptions will not apply to most HRAs. HRAs that can be used for medical expenses generally and that permit carryovers or that provide an employer-funded benefit of more than \$500 will not be considered excepted benefits.

How to Complete Form 720 – PCORI FEE

Step 1 - IRS Form 720 can be accessed at <http://www.irs.gov/pub/irs-pdf/f720.pdf> which is an interactive document so that can be completed on line:

Step 2 - The PCORI fees are entered on line 133 for the appropriate plans. See pages 8 and 9 of the IRS Instructions for completing these fields. Instructions can be found at <http://www.irs.gov/pub/irs-pdf/i720.pdf>:

1 Total. Add all amounts in Part I. Complete Schedule A unless one-time filing						
Part II						
IRS No.	Patient-Centered Outcomes Research Fee (see instructions)	(a) Avg. number of lives covered	(b) Rate for avg. covered life	Col. (a) x Col. (b)	Tax	IRS No.
133	Specified health insurance policies		\$1.00			133
	Applicable self-insured health plans		\$1.00			

Step 3 - Complete the fields on page 7 and make your check or money order payable to “United States Treasury”: