

Employer Questions on Transitional Reinsurance Program

As the November 17 deadline for the transitional reinsurance program approaches, employers have many questions about the program, including timing requirements, coverages subject to the fees, counting methods, and the payment process. This release summarizes the most common questions.

Background

The Affordable Care Act's (ACA)'s transitional reinsurance program was designed to provide temporary funding to insurers that incur high claims costs for enrollees in the individual market both inside and outside the public marketplaces. The fees for 2014 and 2015 are \$63 and \$44 per covered life respectively; the fee for 2016 has not yet been announced. Plan sponsors must submit covered lives data for 2014 by November 17, 2014 and make the payments through pay.gov during 2015. On October 20th the Department of Health & Human Services (HHS) released an [Annual Enrollment and Contributions Submission Form Manual](#) and a [Supporting Documentation Job Aid Manual](#) that provide guidance on the payment process. (See our [March 25, 2014](#) and [October 21, 2014](#) *For Your Information* publications.)

Key Deadlines for 2014 Calendar Year

Date	Activity	Contribution Amount
No later than November 17, 2014	Submit enrollment count and schedule payment dates	
No later than January 15, 2015	Remit first contribution amount The full contribution can be made in a single payment by this date	\$52.50 per covered life
No later than November 15, 2015	Remit second contribution amount	\$10.50 per covered life
	Total	\$63.00 per covered life

What is the submission deadline and will it be delayed like the HPID deadline?

The deadline for submitting the 2014 enrollment count and scheduling the payment dates is November 15, 2014. However, because November 15th is a Saturday, HHS has announced that they will extend the deadline to November 17th. It appears unlikely that the deadline will be extended beyond that date.

To determine the enrollment count can we use the same counting method as for the PCORI fee?

Yes, the same counting methods that apply to PCORI can be used for the reinsurance program. However, because of the relatively low amount of the PCORI fee, many employers used the easiest approach administratively for determining the PCORI fee. Because the reinsurance fee is significantly higher than the PCORI fee, the use of a different method can result in lower reinsurance fees.

Counting Methods:

- Actual count method
- Snapshot count method
- Snapshot factor method
- Form 5500 method

Because of the filing deadline for the PCORI fee (July 31st), many employers could not use the Form 5500 method. However, that approach can be used by employers for determining the 2014 reinsurance fee and can be a very easy method for determining enrollment. Calendar year plans would use the Form 5500 for the 2013 plan year. Non-calendar year plans can use the Form 5500 for the most recent plan year ending before November 15, 2014.

Also, different counting methods can be used for different plans. For example, while for active employees the snapshot factor method often results in the lowest fee, the snapshot count method may generate lower fees for pre-Medicare retirees because retirees generally have fewer dependents than active employees.

It is also important to note that while the PCORI fee is based on enrollment during the plan year (with the exception of the 5500 method), the 2014 reinsurance fee generally is based on enrollment in the first nine months of calendar year 2014, and is not based on the plan year.

Are the same health plans and individuals subject to the PCORI fee also subject to the reinsurance fees?

No. There are some important differences. The reinsurance fee does not apply to the following health plans:

- Health plans that supplement Medicare — Coverage that supplements Medicare for individuals enrolled in Medicare Part A or B, such as retiree medical coverage, is not subject to the reinsurance fee. Note that coverage provided to dependents of Medicare retirees not enrolled in Medicare is subject to the fee.
- Health reimbursement arrangements (HRAs) — Stand-alone HRAs, including “retiree-only” HRAs and HRAs integrated with insured or self-insured medical coverage, are generally not subject to the reinsurance fee.
- Health plan coverage for individuals in the US territories — Because no US territory has elected to establish a transitional reinsurance program, no fee is paid for covered lives with a primary address in a

US Territories:

- Puerto Rico
- US Virgin Islands
- Guam
- American Samoa
- Northern Mariana Islands

US territory. Any reasonable method may be used in determining the primary address of an enrollee.

- Health coverage that does not satisfy 60% minimum value under ACA rules — These plans could be subject to the PCORI fee, but would not be subject to the reinsurance fee.

Are there any alternatives to the ACH debit payment method?

No. HHS will only allow the ACH debit payment method.

How are the DOL and the IRS treating the reinsurance fees?

The DOL has advised that the payment of the reinsurance fee from plan assets is a permissible expense of the plan under ERISA because the payment is required under the ACA. The IRS has [stated](#) that the sponsor of a self-insured group health plan that pays the reinsurance fee may treat the fees as ordinary and necessary business expenses.

What if I need to make a change after the filing has already been submitted? For example, what if I need to update the enrollment count?

Changes can be made after the initial submission, including both before and after the submission deadline. However, the process required depends on the type of change and the timing of the change. The process is discussed in detail starting on page 29 in the [Annual Enrollment and Contributions Submission Form Manual](#).

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