

Subject: **1) Interim Guidance on Expatriate Health Coverage; 2) Updates on Section 6055/6056 Reporting; 3) Final rules - preventive services; and 4) PCOR Fees and Transitional Reinsurance Fee Reminders**

Date: July 13, 2015

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#### **INTERIM GUIDANCE ON EXPATRIATE HEALTH COVERAGE**

The IRS recently issued guidance ([IRS Notice 2015-43](#)) relating to employer-sponsored expatriate health coverage. As background, expatriate health plans issued or renewed on or after July 1, 2015 would be exempt from certain ACA provisions as long as certain criteria are met (see CBIZ HRB, [Expatriate Plans Exempt from ACA](#), 1/8/15). However, the ACA governing agencies have determined that employers and plan sponsors may need additional time and guidance to modify their current arrangements to comply with the law. Thus, until further guidance is issued, employers and plan sponsors are encouraged to use a reasonable good faith interpretation of criteria issued to date as they bring the plans into compliance.

While certain ACA mandates may not apply, it should be noted that special rules apply to expatriate health coverage with regard to the Patient-Centered Outcomes Research (PCOR) fee (see *Plan Applicability* in the chart on page 3) and to the annual fees paid by insurers. In addition, the Section 6055 and 6056 reporting obligations due in early 2016 remain applicable to plans providing expatriate health coverage.

#### **UPDATES ON SECTION 6055/6056 REPORTING**

- ❑ ***Increase in Tax Information Reporting Penalties.*** The Internal Revenue Service can assess penalties when certain tax information is not provided on a timely basis. Specifically, penalties may be assessed for failure to file information returns or provide payee statements, such as the Form W-2 and Form 1099, and notably, the newly imposed Affordable Care Act's Forms 1094 and 1095, or related payee statements. On June 29, 2015, President Obama signed the [Trade Preferences Extension Act of 2015](#) (Public Law No. 114-27). This new law increases these penalties, as follows:
- The penalty for failure to file an information return increases from \$100 to \$250 for each return for which such failure occurs. The total penalty imposed for all failures during a calendar year increases from \$1.5 million to \$3 million.
  - The penalty for failure to provide a correct payee statement increases from \$100 to \$250 for each statement with respect to which such failure occurs, with the total penalty for a calendar year not to exceed \$1.5 million.
  - Special rules apply that increase the per-statement and total penalties if there is intentional disregard of the requirement to furnish a payee statement.

These increased penalties become effective January 1, 2016, meaning for returns due in early 2016 for the 2015 tax year.

- ❑ **E-filing Reports.** As the IRS gears up in preparation for processing the Forms 1094 and 1095 filed electronically, employers and plan sponsors who plan to e-file their own reports are encouraged to review their dedicated web page, [Affordable Care Act Information Returns \(AIR\) Program](#). The IRS has several publications relating to the steps involved in the e-file process, such as registration, applying for an AIR Transmitter Control Code, uploading data files, testing process and related guidance.

### **FINAL RULES: PREVENTIVE SERVICES**

On July 10, 2015, the tri-governing ACA agencies (Departments of Labor, Treasury and Health and Human Services) released [final rules](#) relating to preventive services. Generally, these rules reiterate prior guidance with regard to coverage for preventive services without major changes.

With regard to contraceptive coverage, these rules finalize the interim rules issued last year (see CBIZ HRB, [Implementation Update: Women's Preventive Services](#), 8/28/14). Of particular note, eligible organizations with a religious objection for providing contraceptive services can either self-certify on a form provided by HHS or Form 700 from the Department of Labor. Closely held for-profit entities whose shareholders have sincerely held religious beliefs in contravention of some or all of the contraceptive services may pursue the same self-certification process. The final regulations also clarify the definition of a closely held for profit entity as one that is not publicly traded, and has an ownership structure under which over 50% of the organization's ownership interest is owned by five or fewer individuals, or an entity with a substantially similar ownership structure.

**Effective date.** These rules are scheduled to be published on July 14, 2015 and become effective September 14, 2015.

### **PCOR FEES AND TRANSITIONAL REINSURANCE FEE REMINDER**

July 31<sup>st</sup> is fast approaching which means it is time to begin thinking about the Patient-Centered Outcomes Research (PCOR) fee. And, we are almost halfway through 2015, which means the transitional reinsurance fee will soon be due. Below on pages 3 to 5 is a chart summary of these two fees imposed by the Affordable Care Act. Please refer to our prior CBIZ Health Reform Bulletins listed on page 5 for additional background information.

**CBIZ HEALTH REFORM BULLETIN**

PROVISION	PATIENT-CENTERED OUTCOME RESEARCH FEE	TRANSITIONAL REINSURANCE FEE (PREMIUM STABILIZATION PROGRAM)
<p><b>PLAN APPLICABILITY</b></p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Insurers of all-sized fully-insured plans</li> <li><input type="checkbox"/> All-sized employers of self-funded plans</li> </ul> <p><i>Also applies to:</i></p> <ul style="list-style-type: none"> <li>◆ Retiree-only plans</li> <li>◆ COBRA and state continuation coverage</li> <li>◆ Non-integrated health reimbursement arrangements (HRA) (generally, not permissible in 2014 and beyond unless it is excepted)</li> <li>◆ Integrated HRA (Note: an HRA integrated with insured plan would pay the fee; an HRA integrated with self-funded plan does not)</li> <li>◆ Medical flexible spending accounts (FSA) subject to HIPAA</li> </ul> <p>Plans <i>not subject</i> to the fees include:</p> <ul style="list-style-type: none"> <li>◆ HIPAA-excepted benefit plans such as limited scope dental and vision plans</li> <li>◆ FSAs excepted from HIPAA</li> <li>◆ Employee assistance programs, disease management programs, and wellness programs if the program does not provide significant benefits in the nature of medical care or treatment</li> <li>◆ Expatriate group health plans primarily covering employees who work and reside outside the U.S.; or cover foreign nationals working in the U.S. for specific and temporary purpose, or who work less than six months of the plan year, or cover certain non-profit groups (charitable workers) who travel or re-locate globally for at least 6 months of the plan year</li> <li>◆ Stop loss and indemnity reinsurance policies</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Insurers of all-sized fully-insured plans</li> <li><input type="checkbox"/> All-sized employers of self-funded plans</li> </ul> <p><i>Also applies to:</i></p> <ul style="list-style-type: none"> <li>◆ Post-employment plans that are primary to Medicare, such as early retiree plans</li> <li>◆ COBRA continuation coverage</li> </ul> <p>Plans <i>not subject</i> to fees include:</p> <ul style="list-style-type: none"> <li>◆ HIPAA-excepted benefit plans such as limited scope dental and vision plans</li> <li>◆ HRAs integrated with comprehensive insured or self-funded group coverage</li> <li>◆ Flexible medical spending account plans (FSA)</li> <li>◆ Health savings accounts (HSA) except an HDHP used in conjunction with HSA is considered major medical insurance and thus, subject to reinsurance contributions</li> <li>◆ Employee assistance plans, disease management programs, and wellness programs if the program does not provide significant benefits in the nature of medical care or treatment.</li> <li>◆ Post-employment plans where Medicare is primary to group plan.</li> <li>◆ Stand-alone prescription drug plans</li> <li>◆ TRICARE or other military benefit plans</li> <li>◆ Certain Indian Tribal benefit programs</li> <li>◆ Certain expatriate plans</li> </ul>

**CBIZ HEALTH REFORM BULLETIN**

PROVISION	PATIENT-CENTERED OUTCOME RESEARCH FEE	TRANSITIONAL REINSURANCE FEE (PREMIUM STABILIZATION PROGRAM)
<b>AMOUNT OF FEE</b>	<ul style="list-style-type: none"> <li>◆ For policy and plan years ending after 9/30/12 and before 10/1/13, the applicable dollar amount is \$1 per covered life.</li> <li>◆ For policy and plan years ending after 9/30/13 and before 10/1/14, the applicable dollar amount is \$2 per covered life.</li> <li>◆ For policy and plan years ending after 9/30/14 and before 10/1/15, the applicable dollar amount is \$2.08 per covered life.</li> </ul>	<ul style="list-style-type: none"> <li>◆ For 2014: \$5.25 per covered life per month based on calendar year</li> <li>◆ For 2015: \$3.66 per covered life per month based on calendar year</li> <li>◆ For 2016: \$27 per covered life</li> </ul>
<b>INSURED PLANS: METHODS FOR DETERMINING COVERED LIVES</b>	Actual count, Snapshot, Member months, or State form methods	Actual count, Snapshot count, Member months or State form methods
<b>SELF-FUNDED PLANS: METHODS FOR DETERMINING COVERED LIVES</b>	Actual count, Snapshot, or Form 5500 methods	Actual count, Snapshot count, Snapshot factor, or Form 5500 methods
<b>ENTITY PAYING FEE</b>	<input type="checkbox"/> By insurer of fully insured plan <input type="checkbox"/> By plan sponsor of self-funded plan	<input type="checkbox"/> By insurer of fully insured plan <input type="checkbox"/> By plan sponsor of self-funded plan
<b>REPORTING AND PAYING THE FEE</b>	PCOR fees paid once a year in connection with IRS Form 720, <i>Quarterly Federal Excise Tax Return</i> : <ul style="list-style-type: none"> <li>◆ For insured plans, Form 720 due by July 31<sup>st</sup> following the close of the plan year.</li> <li>◆ For self-funded plans, Form 720 due by July 31<sup>st</sup> of the calendar year following the plan year end.</li> </ul>	<ul style="list-style-type: none"> <li>◆ Submit annual enrollment count (based on first 9 months of year) to HHS by November 15<sup>th</sup> of each year on the “ACA Transitional Reinsurance Program Annual Enrollment Contributions Submission Form” available via <a href="http://www.pay.gov">www.pay.gov</a>.</li> <li>◆ The reporting form will auto-calculate contribution amounts and allow payments to be made in one or two installments.</li> </ul>
<b>FEES PAID FROM PLAN ASSETS?</b>	No	Yes
<b>APPLICABILITY PERIOD</b>	Plan years ending after 9/30/12 <i>No fee assessed for plan years ending after 9/30/19 (for calendar year plans, this means the 2018 plan year)</i>	Calendar years 2014 to 2016

PROVISION	PATIENT-CENTERED OUTCOME RESEARCH FEE	TRANSITIONAL REINSURANCE FEE (PREMIUM STABILIZATION PROGRAM)
<b>ADDITIONAL INFORMATION AND RESOURCES</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> <b>IRS webpage: <i>Patient-Centered Outcomes Research Institute Fee</i></b> <ul style="list-style-type: none"> <li>◆ IRS chart on types of coverage subject to the PCORI Fee</li> <li>◆ IRS Questions and Answers</li> </ul> </li>   <li><input type="checkbox"/> <b>CBIZ Health Reform Bulletins</b> <ul style="list-style-type: none"> <li>◆ <i>Year-end Wrap Up (12/21/11)</i></li> <li>◆ <i>Fees on Health Insurance Policies &amp; Self-Insured Plans: Patient-Centered Outcome Research Trust Fund (4/18/12)</i></li> <li>◆ <i>Final Regulations Issued: Patient-Centered Outcomes Research Fees and Medical Device Tax (12/11/12)</i></li> <li>◆ <i>Chart of Health Plan Fees and Taxes (12/18/12)</i></li> <li>◆ <i>See Patient-Centered Outcomes Research Fee in Sub-Regulatory Guidance and FAQs Issued (1/25/13)</i></li> <li>◆ <i>Reporting and Paying PCOR Fees: Revised Form 720 Issued (6/4/13)</i></li> <li>◆ <i>Year-end Wrap Up (12/23/13)</i></li> <li>◆ <i>PCOR Fees and Transitional Reinsurance Fees (6/18/14)</i></li> <li>◆ <i>Year-end Wrap Up (12/11/14)</i></li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> <b>CCIIO’s webpage: <i>Transitional Reinsurance Program – Reinsurance Contributions</i></b></li>   <li><input type="checkbox"/> <b>CBIZ Health Reform Bulletins</b> <ul style="list-style-type: none"> <li>◆ <i>Premium Stabilization Program Proposals and 2) Chart of Health Plan Fees and Taxes (12/18/12)</i></li> <li>◆ <i>Implementation Guidance (3/12/13)</i></li> <li>◆ <i>See ‘Transitional Reinsurance Fee’ in ‘Proposed Benefit and Payment Parameters in 2015’ in Year-end Wrap Up (12/23/13)</i></li> <li>◆ <i>HHS Benefit and Payment Parameters for 2015 (3/14/14)</i></li> <li>◆ <i>PCOR Fees and Transitional Reinsurance Fees (6/18/14)</i></li> <li>◆ <i>Completing the Transitional Reinsurance Fee Form (10/28/14)</i></li> <li>◆ <i>Proposed Benefit and Payment Parameters for 2016 in Year-end Wrap Up (12/11/14)</i></li> <li>◆ <i>Transitional Reinsurance Fee Refund Requests (4/17/15)</i></li> </ul> </li> </ul>

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