

**LEGISLATIVE BRIEF:**

**NEWS RELATED TO THE PATIENT PROTECTION AND AFFORDABLE CARE ACT**  
**HEALTH PLAN ASSESSMENT TO FUND COMPARATIVE**  
**EFFECTIVENESS RESEARCH**

The **Patient-Centered Outcomes Research Institute (PCORI)** created by the Patient Protection and Affordable Care Act (PPACA) is intended to commission unbiased, outcomes-based research into health matters to promote informed decision-making. The institute and the research it will fund is often referred to as the “comparative effectiveness research” provisions in PPACA.

- » The PCORI is funded through fees assessed on health plans, including self-insured employer plans, effective for most of our members in the current plan year (applies to plan years ending after September 30, 2012).
- » For plan years ending before October 1, 2013, the fee equals \$1 multiplied by the average number of lives covered under the policy.
- » For plan years ending after October 1, 2013, the fee is approximately \$2 multiplied by the average number of lives covered under the policy, although future payments may be based on the prior year’s total indexed by the rate of increase for national health expenditures.
- » The fee is scheduled to sunset for plans ending after September 30, 2019.

Final rules have not been released on how the tax will be collected and paid, but the Internal Revenue Service has released **draft rules** that suggest the tax will only apply to “accident and health coverage” and will not apply to policies under which “substantially all” of the coverage consists of excepted health benefits under HIPAA. Health FSAs would also be considered excepted benefits if they satisfy certain requirements. The IRS asks for guidance on how HRAs should be treated and how self-funded plans could reduce their administrative burden. The tax could be collected either quarterly or annually.

Stay tuned for more information about this fee which could have a near term impact on your company’s tax responsibilities.

**If you have questions about your plan’s compliance with these requirements or how to implement them, please contact your attorney.**

Updated: January 16, 2012