



legislativeUPDATE

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Health Insurance Provider Fee

New [proposed regulations](#) have been issued regarding the annual fee that “covered entities” engaged in the business of providing “health insurance” will have to begin paying in 2014 as a result of healthcare reform. While the fee does not apply directly to self-insured employer plans, it is likely that the cost of the fee will be passed through to enrollees and plan sponsors of insured plans (including large group plans) in the form of increased premiums.

The definition of “covered entity” includes health insurance issuers (defined in a way that does not include group health plans); HMOs; insurance companies; insurers providing Medicare Advantage, Medicare Part D, or Medicaid coverage; and certain MEWAs that are not fully insured. Entities that will not be considered covered entities include any employer to the extent that the employer self-insures its employees’ health risks; any entity that is a voluntary employees’ beneficiary association (VEBA) and is established by an entity (other than by an employer or employers) for purposes of providing health care benefits; and certain governmental entities and nonprofit corporations. The rules define “health insurance” as benefits consisting of medical care provided under a certificate, policy, or contract with a health insurance issuer, and provide details regarding arrangements that are not included in the definition. The definition generally excludes benefits that are excepted benefits for HIPAA purposes; notably, however, limited-scope dental and vision benefits are not excluded, and there is no exclusion for retiree-only plans.

The aggregate fee amount for all covered entities (referred to as the applicable amount) is \$8 billion for calendar year 2014, \$11.3 billion for calendar years 2015 and 2016, \$13.9 billion for calendar year 2017, and \$14.3 billion for calendar year 2018. The applicable amount for calendar year 2019 and thereafter is the applicable amount for the preceding calendar year increased by the rate of premium growth for the preceding calendar year. Each covered entity will be required to report its net premiums written for US health risks, and its annual fee for the calendar year is an amount that bears the same ratio to the applicable amount as (a) the covered entity’s net premiums written during the preceding calendar year with respect to health insurance for any US health risk, bears to (b) the aggregate net written premiums of all covered entities during such preceding calendar year with respect to such health insurance. The rules explain what amounts are excluded when determining a covered entity’s net premiums, and what net premiums can be disregarded for purposes of calculating the fee. (By statute, the first \$25 million of net premiums for a year, and 50% of the next \$25 million in net premiums for the year, are not taken into account.)

The rules outline a multi-step process in which covered entities must first report their net premiums written for health insurance on United States health risks by May 1 of the year for which the fee is due. (Penalties will be assessed for the failure to timely and accurately report premiums written.) The IRS will then make a preliminary calculation of each covered entity's annual fee based on the reported premium and other information such as filings with the National Association of Insurance Commissioners. Covered entities will have an opportunity to make corrections before the IRS completes its final calculation and notifies each covered entity of its fee no later than August 31st of the fee year. Fee payments will be due September 30th. The rules offer details regarding the tax treatment of the fee (generally, it is treated as an excise tax), how refunds may be sought, and how the fee will be paid. Details regarding the error correction procedure to be followed after the IRS provides notice of its preliminary calculation will be given in later guidance.

The proposed regulations invite comment regarding a variety of issues, including application of the fee to government "instrumentalities" and state-sponsored entities established to offer coverage to high-risk individuals. Should you have questions, contact your Conner Strong & Buckelew account representative toll free at 1-877-861-3220. For a complete list of Legislative Updates issued by Conner Strong & Buckelew, visit our online [Resource Center](#).



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