

3 MAIN FEES UNDER THE ACA FACT SHEET

This Fact Sheet reflects Final Regulations published by the IRS on December 5, 2012 for the Comparative Effectiveness Research Fee (CERF). It reflects Final Regulations published by the Department of Health Services (HHS) in May 2012 and additional guidance included in Proposed Rules issued on November 30, 2012 for the Reinsurance Assessment. It reflects the Health Insurance Industry Fee proposed regulations issued by the Treasury Department and the IRS in March 2013

	COMPARATIVE EFFECTIVENESS RESEARCH FEE	HEALTH INSURANCE INDUSTRY FEE	REINSURANCE ASSESSMENT
What it is/ fee duration	Annual fee on insured and self-funded health plans until 2019	Permanent, annual fee on health insurers beginning in 2014	Annual fee on insured and self-funded health plans from 2014-2016
Purpose	Fund comparative effectiveness research	Help fund federal and state Marketplaces/Exchanges	Fund reinsurance program to help lessen impact of high-risk individual entering individual market
Amount	<ul style="list-style-type: none"> * Begins at \$1 per participant, including dependents, for plan years beginning 11/1/2011 through 10/1/2012 (first payments are due 07/31/2013) * Increases to \$2 for the following years * Future amounts will be indexed to national health expenditures 	<ul style="list-style-type: none"> * \$8 billion in 2014 * Increases each year to \$14.3 billion in 2018 * Increases with premium growth after 2018 * Allocated to insurers based on prior year's share of total earned premium 	<ul style="list-style-type: none"> * \$12 billion in 2014 * \$8 billion in 2015 * \$5 billion in 2016
Who Pays	<p>Insured: Insurers</p> <p>Self-Funded: Employers, insurers are not allowed to pay or calculate</p>	<p>Insured: Insurers</p>	<p>Insured: Insurers</p> <p>Self-Funded: Employers are responsible, but they may choose to have their administrator make the payment on the plan's behalf</p>
Tax Implications	Tax deductible	Tax deductible for employers as part of premium	Tax deductible
Estimated cost impact	<ul style="list-style-type: none"> * \$1 per member per year (PMPY) in first year * Increases in future years 	<ul style="list-style-type: none"> * Estimated to be 2%-2.5% of premium in 2014 * Increasing to 3%-4% of premium in future years 	<ul style="list-style-type: none"> * \$63 PMPY in 2014 * Estimated \$40-\$45 PMPY in 2015 * Estimated \$25-\$30 PMPY in 2016

FEES, PENALTIES AND TAXES UNDER THE ACA

➤ **Comparative Effectiveness Research Fee**

This fee is effective for plan years ending after September 30, 2012 and before October 1, 2019. There will be a \$2 fee per member per year which is paid by insurers if it is an insured plan or paid by the sponsor if it is a self-funded plan. The fee will reduce to \$1 for plan years ending before October 1, 2013. For the plans that begin after September 30, 2014 the fee will increase based on the national health expenditures. The fee is supposed to end after 2019. This fee will be an annual fee due by July 31 of each year.

➤ **Health Insurance Industry Fee**

This fee on health insurers (including HMOs) starts at \$8 billion in 2014 and increases year over year before reaching \$14.3 billion in 2018. After 2018, it will continue to increase with premium growth. The fee, which applies only to insured business, will be based on each insurer's share of the taxable health insurance premium base (among all health insurers of U.S. health risks).

➤ **Reinsurance Assessment**

This assessment on carriers and employers that sponsor self-funded plans. This assessment will apply to all groups health plans no exceptions for non-ERISA plans and will be done on a per-member basis but it will not apply to the HIPAA-excepted benefits. The assessment will be applied to the 2014-2016 plan years and is intended to stabilize premiums in the individual markets. There will be additional employer recordkeeping and cost requirements.

➤ **Insurance Mandates and Market Reforms**

Failure to comply with the ACA's insurance mandates and market reforms may subject the employer to an excise tax. The tax will be \$100 per day per affected individual, limited to the lesser of \$500,000 or 10% of the employer's healthcare cost for the prior tax year. Some exceptions will apply if there is a failure due to reasonable cause that are corrected within 30 days after the plan knew or should have known about the failure. Also if the employer did not know about the failure and could not have known by exercising reasonable diligence then that would qualify as an exception.

➤ **Small Business Tax Credit**

Employers with 25 or fewer employees and average annual wages of less than \$50,000 get a tax credit if they pay 50% of the cost of coverage. (A 25 person test applies on controlled group basis) For 2010-2013 tax years, maximum credit is 35% of employer-paid premiums. (25% for tax-exempt organizations) For 2014 tax year and beyond, maximum credit increases to 50% (35% for tax-exempt organizations) and only applies to insurance purchased in the exchange.

➤ **Non-Discrimination Rules**

(DELAYED UNTIL GUIDANCE RELEASED)

This will apply to non-grandfathered, fully-insured plans after release. (Already applied to self-insured plans) This will prohibit discrimination in favor of "highly compensated employees" with respect to eligibility and benefits. There will be a penalty of up to \$500,000 under the ACA. Testing will be performed on a controlled group basis.

➤ **Reporting of Health Cost on W-2's**

Beginning with 2012 employers must report the aggregated cost of health coverage. Reportable cost includes the entire cost of the coverage, without any reduction for employee contributions. Cost of coverage is determined under rules similar to those for determining COBRA premiums, excluding 2% administrative charge. Employers could be subject to significant penalties each year for failing to

properly report the cost of employer-sponsored coverage. A penalty of \$100 per W-2 form, capped at \$1.5 million per year. For any failures corrected within 30 days, the penalty is reduced to \$30 per W-2 and capped at \$250,000 for the year. For failures corrected after 30 days but on or before August 1, the penalty is \$60 per W-2 and capped at \$500,000 for the year.

➤ **Health FSA Limit**

Effective for plan years beginning in 2013 will have limits for the annual employee contributions to \$2,500. This limit will be indexed to the CPI starting in 2014 and does not limit employer contributions that are non-cashable.

➤ **Additional Medicare Payroll Tax**

Effective January 2013 the employee portion of the FICA hospital insurance payroll tax is increased by 0.9% for employees with wages in excess of \$200,000 (\$250,000 for married couples filing jointly) If the employer fails to withhold the additional 0.9% tax those wages, the employer will be liable for taxes that were not withheld.

➤ **Retiree Drug Subsidy**

Starting in 2013, employers can no longer take a tax deduction for the government-subsidized portion of prescription drug expenses.

➤ **Play or Pay Penalties**

Employers who "opt out" of providing benefits to full time employees will be subject to an annual penalty of \$2,000 x all full time employees (minus the first 30). Employers that provide coverage but it is "unaffordable" will be subject to an annual penalty the lesser of \$3,000 for each full time employee who receives a tax credit and enrolls on the exchange or \$2,000 multiplied by all full time employees minus the first 30. The penalty is assessed monthly (i.e., \$167.67 per full time employee per month).

➤ **Cadillac Tax**

This tax will be effective in 2018; it will be a nondeductible excise tax of 40% for any plan valued above \$10,200 for singles and \$27,500 for families. It will provide higher limits for "qualified retirees" and employees in "high-risk" professions. FSAs, HSAs, HRAs will be included in this tax with a special rule for multiemployer plans: \$27,500 threshold for any coverage, whether family or single.

➤ **Tax Related Provisions**

Individuals will have an increased excise tax on non-qualified HSA distributions as well as an increased itemized deduction limit for medical expenses and a 3.8% FICA tax on unearned income. Effective January 2011, the penalty for using HSA funds for non-medical purposes increased from 10% to 20%. Effective 2014 the itemized deduction for medical expenses is allowed only to the extent expenses exceed 10% of AGI, increasing the threshold from 7.5%, if you are 65 or older this threshold will not apply until 2017

➤ **Individual Mandate Tax Penalty**

The penalty for noncompliance is the greater of either: a percentage of the amount by which HHI exceeds the personal exemption amount plus the standard deduction amount. The percentage is 1% in 2014, 2% in 2015, and 2.5% thereafter, or a flat dollar amount assessed on each taxpayer and any dependents. The annual flat dollar amount is phased in \$95 in 2014, \$325 in 2015, and \$695 in 2016 and beyond. The penalty cannot exceed national average for bronze exchange plans.



BUIE INSURANCE
SERVICES, LLC
Employee Benefits | Retirement | Life | Disability

