

Part III – Administrative, Procedural, and Miscellaneous

Health Insurance Providers Fee; Procedural and Administrative Guidance

Notice 2019-50

SECTION 1. PURPOSE

This notice provides the Applicable Amount for the fee imposed by Section 9010 of the Patient Protection and Affordable Care Act (PPACA) for the 2020 fee year.

SECTION 2. BACKGROUND

Section 9010 of the PPACA, Public Law 111-148 (124 Stat. 119 (2010)), as amended by Section 10905 of PPACA, and as further amended by Section 1406 of the Health Care and Education Reconciliation Act of 2010, Public Law 111-152 (124 Stat. 1029 (2010)), imposes an annual fee on covered entities engaged in the business of providing health insurance for United States health risks. The fee is a fixed amount (Applicable Amount) allocated among all covered entities in proportion to their relative market share as determined by each entity's net premiums written for the data year, which is the year immediately preceding the year in which the fee is paid (the year in which the fee is paid is the fee year). Section 4003 of Division D—The Suspension of Certain Health-Related Taxes enacted on January 22, 2018, Public Law 115-120 (132 Stat. 38), suspended the fee for 2019. Absent legislative action, the fee will resume in 2020.

Section 9010(e)(1) provides the Applicable Amount for calendar years 2014 through 2018. The Applicable Amount for the 2018 fee year was \$14,300,000,000. Section 9010(e)(2) provides that in the case of any calendar year beginning after 2018, the Applicable Amount shall be the Applicable Amount for the preceding calendar year increased by the rate of premium growth (within the meaning of § 36B(b)(3)(A)(ii) of the Internal Revenue Code).

Section 36B(b)(3)(A)(ii) generally provides that certain amounts are adjusted annually to reflect the excess of the rate of premium growth over the rate of income growth for the preceding calendar year. Sections 1.36B-2(c)(3)(v)(C) and 1.36B-3(g) of the Income Tax regulations provide that the amounts may be further adjusted to reflect updates to the data and data sources used to compute the ratio of premium growth to income growth. The amounts are computed using a premium adjustment percentage provided in guidance issued by the Department of Health and Human Services (HHS). For years prior to 2020, the rate of premium growth was based on per enrollee spending for employer-sponsored insurance as published in the National Health Expenditure Account (NHEA). However, in the 2020 Notice of Benefit and Payment Parameters, 84 FR 17454 (April 25, 2019), HHS provided a new premium growth measure beginning in calendar year 2020 that captures increases in individual market premiums in addition to increases in employer-sponsored insurance premiums for purposes of calculating the premium adjustment percentage for the 2020 benefit year and beyond. With this notice, the Department of the Treasury and the Internal Revenue Service adopt the new premium growth measure provided in the 2020 Notice of Benefit and Payment

Parameters for purposes of determining the Applicable Amount for the fee imposed by Section 9010.

SECTION 3. METHODOLOGY

.01 Premium growth. The measure of premium growth for a calendar year is the premium adjustment percentage. For 2020, the premium adjustment percentage is calculated as the difference between the percentage (if any) by which the most recent National Health Expenditure Accounts (NHEA) projection of per enrollee premiums for private health insurance (excluding Medigap and property and casualty insurance) for the preceding calendar year, 2019 (\$6,436), exceeds the most recent NHEA estimate of per enrollee premiums for private health insurance (excluding Medigap and property and casualty insurance) for 2017 (\$5,929), the year preceding the last year that the Applicable Amount was provided by statute (2018, the base year), carried out to 10 significant digits. This method implicitly takes into account the premium growth from 2017-2018 as well as 2018-2019, thereby reflecting updates to the data and data sources that would have applied to compute the Applicable Amount for the 2019 fee year if the fee had not been suspended for that year. Using this formula, the premium adjustment percentage for 2020 is 1.0855118907.

.02 Applicable Amount. The 2020 Applicable Amount is determined by multiplying the fee for the 2018 base year (14,300,000,000) by the premium adjustment percentage for 2020 (1.0855118907), rounded to the nearest dollar.

SECTION 4. GUIDANCE FOR FEE YEAR 2020

The 2020 Applicable Amount is \$15,522,820,037.

SECTION 5. APPLICABILITY DATE

This notice applies to the 2020 fee year.

SECTION 6. DRAFTING INFORMATION

The principal author of this notice is Rachel S. Smith of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this notice, please contact Ms. Smith at (202) 317-6855 (not a toll-free call).