

## **Sections 4375 & 4376 – Insured and Self-Insured Health Plans Adjusted Applicable Dollar Amount for Fee Imposed by Sections 4375 and 4376**

Notice 2023-70

### **I. PURPOSE**

This notice provides the adjusted applicable dollar amount to be multiplied by the average number of covered lives for purposes of calculating the fee imposed by sections 4375 and 4376 of the Internal Revenue Code for policy years and plan years that end on or after October 1, 2023, and before October 1, 2024.

### **II. BACKGROUND**

Section 4375 imposes a fee on the issuer of a specified health insurance policy for each policy year ending after September 30, 2012, and before October 1, 2029. Section 4376 imposes a fee on the plan sponsor of an applicable self-insured health plan for each plan year ending after September 30, 2012, and before October 1, 2029. The fee imposed by sections 4375 and 4376 helps to fund the Patient-Centered Outcomes Research Trust Fund (PCORTF) and is calculated using the average number of lives covered under the policy or plan and the applicable dollar amount for that policy year or plan year. Under sections 4375(a) and 4376(a), the applicable dollar amount is \$2 for policy and plan years ending on or after October 1, 2013, and before October 1, 2014.<sup>1</sup> See Treas. Reg. §§ 46.4375-1(c)(4) and 46.4376-1(c)(3).

Under sections 4375(d) and 4376(d) and §§ 46.4375-1(c)(4) and 46.4376-1(c)(3), the applicable dollar amount for policy years and plan years ending in any Federal fiscal year beginning on or after October 1, 2014, is increased based on increases in the

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<sup>1</sup> The applicable dollar amount is \$1 for policy and plan years ending before October 1, 2013.

projected per capita amount of National Health Expenditures. Specifically, the applicable dollar amount is the sum of—

- (i) The applicable dollar amount for the policy year or plan year ending in the previous Federal fiscal year; plus
- (ii) The amount equal to the product of—
  - (A) The applicable dollar amount for the policy year or plan year ending in the previous Federal fiscal year; and
  - (B) The percentage increase in the projected per capita amount of the National Health Expenditures, as most recently released by the Department of Health and Human Services (HHS) before the beginning of the Federal fiscal year.

Notice 2022-59, 2022-48 IRB 498, provides that the adjusted applicable dollar amount for policy years and plan years that end on or after October 1, 2022, and before October 1, 2023, is \$3.00.

### **III. ADJUSTED APPLICABLE DOLLAR AMOUNT**

The applicable dollar amount that must be used to calculate the fee imposed by sections 4375 and 4376 for policy years and plan years that end on or after October 1, 2023, and before October 1, 2024, is \$3.22. The increase from the prior applicable dollar amount is calculated by multiplying \$3.00 (which is the adjusted applicable dollar amount for policy years and plan years ending in the previous Federal fiscal year) by the percentage increase of the projected per capita amount of National Health

Expenditures published by HHS on June 12, 2023. See:

<https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/NationalHealthAccountsProjected.html>, Table 3.

The percentage increase is calculated after adjustment to reflect updates to the data used to calculate the prior applicable dollar amount, \$3.00, which was based on the per capita amounts of National Health Expenditures for 2022 and 2023 published by HHS on March 24, 2022.

#### **IV. EFFECTIVE DATE**

This notice is effective for policy years and plan years ending on or after October 1, 2023, and before October 1, 2024.

#### **V. DRAFTING INFORMATION**

The principal author of this notice is Jason Sandoval of the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). For further information regarding this notice, contact Mr. Sandoval at 202-317-5500 (not a toll-free call).