

AGENCIES DELAY HEALTH PLAN TRANSPARENCY/NO SURPRISES RULES

Hodgson Russ Employee Benefits Newsletter
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The Departments of Labor, Health and Human Services, and the Treasury (collectively, the “Agencies”) issued Frequently Asked Questions (FAQs) regarding implementation of certain provisions of the Consolidated Appropriations Act (CAA). In the final days of 2020, the CAA was signed into law providing a number of obligations on health plans and their service providers relating to transparency. The recent guidance has extended the deadline for the enforcement of several of these rules. Among the provisions affected by this new guidance is:

- Transparency in Coverage Machine-Readable Files.

The Transparency in Coverage Final Rules require group health plans to disclose information regarding in-network provider rates for covered services, out-of-network allowed amounts and billed charges for covered services, and negotiated rates and historical net prices for covered prescription drugs in three separate machine-readable files. The machine-readable file requirements were to be applicable for plan years beginning on or after January 1, 2022. However under this new guidance, the Agencies will defer enforcement of these rules applicable until July 1, 2022. Enforcement of regulations related to the publishing machine-readable files for prescription drug pricing will be deferred pending further rulemaking.

- Price Comparison Tools

Under the CAA, group health plans are required to offer price comparison guidance by telephone and make available a “price comparison tool” that allows a participant to compare the amount of cost-sharing that the participant would pay for a specific item or service. This requirement is applicable with respect to plan years beginning on or after January 1, 2022. Under the new guidance, the deadline for the CAA price comparison tool has been delayed until plan years beginning on or after January 1, 2023.

- Advanced Explanation of Benefits

The CAA requires plans to send a participant an Advanced Explanation of Benefits notification in clear and understandable language. These provisions were to apply with respect to plan years beginning on or after January 1, 2022.

Attorneys

Peter Bradley
Michael Flanagan
Richard Kaiser
Ryan Murphy
Amy Walters

Practices & Industries

Employee Benefits

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Under the new guidance, the Agencies will defer enforcement until regulations to fully implement the requirements are adopted and applicable.

- Provider Directory

The CAA established provider directory standards. These provisions generally require plans to verify the accuracy of provider directory information and to establish a procedure for responding to participant requests about a provider's network participation status. If a participant is provided inaccurate information by the plan under the required provider directory, the plan cannot impose a cost-sharing amount that is greater than the cost-sharing amount that would be imposed for items and services furnished by a participating provider or participating facility. Although these provisions are applicable with respect to plan years beginning on or after January 1, 2022, additional rulemaking will not be issued until after the effective date. Until additional guidance issued, plans are expected to implement these rules using a good faith, reasonable interpretation of the statute.

The CAA imposed a number of rules that will significantly change the way that group health plans are administered. These FAQs provide interim guidance and may change the timeline that plan sponsors may have developed for addressing the implementation of these new rules.

FAQs About Affordable Care Act and Consolidated Appropriations Act, 2021 Implementation Part 49 (Aug. 20, 2021)