

Transparency in Coverage Requirements – Extended Deadlines

The Transparency in Coverage Regulations (TiC Regulations) and certain provisions of the Consolidated Appropriations Act (CAA) (collectively “transparency requirements”) impose new obligations on group health plans, health insurers and health care providers. The new transparency obligations are intended to provide additional information to health care plans and health care consumers that, in the long run, will assist in bringing down health care costs. While the rules provide a safe harbor for fully insured plans if their insurance carrier has agreed to provide this information, the sponsors of self-funded plans are responsible for compliance with the new transparency requirements. Plan sponsors will obviously look to their health plan third party administrators in connection to meet this new burden. On August 2021, the U.S. Department of Labor published FAQs which extended many of the new deadlines.

<https://www.dol.gov/sites/dolgov/files/EBSA/about-ebbsa/our-activities/resource-center/faqs/aca-part-49.pdf>

Set forth below is a table listing the major transparency requirements for group health plans and health insurers, and the effective date (extended or original, as applicable) of each requirement, along with the source of the requirement (i.e., CAA vs. TiC Regulations). Self-funded clients in particular will want to speak with their third-party administrator about the new requirements.

| Requirement | Original Compliance Date | Extended Compliance Date |
|--|---|--|
| Group health plan must include deductibles and OOP maximum on ID cards. CAA | Plan years beginning on or after 1/1/2022 | Not extended. Use a good faith, reasonable interpretation of the requirement pending regulations (not expected prior to 1/1/2022). DOL FAQs Part 49 Q&A-4. |
| A group health plan is prohibited from entering into a contract that has a gag clause applicable to provider cost or quality data. CAA | 12/27/2020 | Not extended. Use a good faith, reasonable interpretation of the requirement. The Departments will publish regulations on the process for submitting attestations of compliance. DOL FAQs Part 49 Q&A-7. |
| A group health plan must apply in-network cost sharing to a participant’s claim if a participant relies on directory information that incorrectly identifies a health care provider as in-network. CAA | Plan years beginning on or after 1/1/2022 | Not extended. Use a good faith, reasonable interpretation of the requirement pending regulations (not expected prior to 1/1/2022). DOL FAQs Part 49 Q&A-8 |
| Group health plan and carriers must provide continuity of care , when termination of contractual relationship results in changes in provider or facility network status. CAA | Plan years beginning on or after 1/1/2022 | Not extended. Use a good faith, reasonable interpretation of the requirement pending regulations (not expected prior to 1/1/2022). DOL FAQs Part 49 Q&A-10. |

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| Requirement | Original Compliance Date | Extended Compliance Date |
|---|--|---|
| Group health plan must make public a machine-readable file with in-network provider rates for covered items and services. TiC Reg | Plan years beginning on or after 1/1/2022 | For plan years starting 1/1/2022-6/30/2022, the compliance date is extended to 7/1/2022 . Not extended for plan years beginning on or after 7/1/2022. DOL FAQs Part 49 Q&A-2. |
| Group health plan must make public a machine-readable file with out-of-network allowed amounts and billed charges for covered items and services. TiC Reg | Plan years beginning on or after 1/1/2022 | For plan years starting 1/1/2022-6/30/2022, the compliance date is extended to 7/1/2022. Not extended for plan years beginning on or after 7/1/2022. DOL FAQs Part 49 Q&A-2. |
| Group health plan must make public a machine-readable file with negotiated rates and historical net prices for covered prescription drugs. TiC Reg | Plan years beginning on or after 1/1/2022 | Indefinitely extended, pending publication of revised regulations. DOL FAQs Part 49 Q&A-1. |
| Group health plan must offer self-service price comparison tool for 500 shoppable covered items and services. TiC Reg | Plan years beginning on or after 1/1/2023 | Not extended. The Departments will propose the addition of a telephone number for assistance. DOL FAQs Part 49 Q&A-3. |
| Group health plan must offer a self-service price comparison tool for all covered items and services. TiC Reg | Plan years beginning on or after 1/1/2024 | Not extended. The Departments will propose the addition of a telephone number for assistance. DOL FAQs Part 49 Q&A-3. |
| Group health plan must offer a price comparison tool. CAA | Plan years beginning on or after 1/1/2022 | The Departments think the price comparison tool required by the CAA is “largely duplicative” of the price comparative tool required by the transparency regulations. (See preceding table entry.) In order to line up to the two sets of requirements, the Departments extended the compliance date of the CAA price comparison tool to the plan years beginning on or after 1/1/2023. The Departments expect to propose that compliance with Treas. Reg. §54.9815-2715A2 (updated to include a telephone number) will constitute compliance with CAA Div. BB §114. DOL FAQs Part 49 Q&A-3. |
| A health care provider and group health plan must work together to provide an advanced EOB to a patient scheduling service. CAA | Plan years beginning on or after 1/1/2022 | Indefinitely extended, pending publication of regulations. DOL FAQs Part 49 Q&A-6. |
| A group health plan must provide certain prescription drug information and costs to the government. CAA | First report is due by 12/27/2021. Subsequent reports are due by 6/1 of following years. | Deadline for first and second reports extended, pending regulations or further guidance. Plans should expect to have to report 2020 and 2021 data by 12/27/2022. DOL FAQs Part 49 Q&A-12. (Departments to issue reporting forms and online reporting tool.) |

Note that new requirements associated with the CAA’s surprise billing protections were not postponed, and are still scheduled to apply to plan years on or after January 1, 2021.