



New Guidance Clarifies, Delays Key Health Plan Reforms

The Treasury Department, the Department of Labor, and the Department of Health and Human Services (the agencies) have jointly issued frequently asked questions (FAQs) guidance that clarifies or delays certain provisions of the Affordable Care Act (ACA), the Consolidated Appropriations Act (CAA), and the No Surprises Act (NSA), a 2020 law intended to restrict excessive out-of-pocket costs to individuals from surprise billing and balance billing when treated for emergency or ancillary health care from out-of-network providers.

Reporting on Pharmacy Benefits and Drug Costs: The CAA requires group health plans and health insurance issuers to report detailed prescription drug cost information to the agencies, including the 50 most frequently dispensed prescription drugs and the 50 most costly prescription drugs dispensed during the plan year. The original

deadline for reporting this information was set for December 27, 2021. However, because plans and issuers may need more time to prepare for the new reporting requirements, the agencies will defer enforcement of the December 27, 2021, deadline. But plans and issuers should prepare to report 2020 and 2021 prescription drug data by December 27, 2022.

Price Comparison Tools: The NSA requires plans and issuers to make price comparison and cost-sharing information available to plan participants and beneficiaries through internet-based self-service tools and in paper form, upon request. The ACA requires plans and issuers to disclose on a public website, in machine-readable files, in-network provider rates for covered items and services, and out-of-network allowed amounts and billed charges for covered items and services. Both of these requirements were set to take effect on January 1, 2022. But because plans and issuers may need more time to prepare for the new requirements, the agencies will delay the effective date of the NSA requirements to January 1, 2023, and to July 1, 2022, for the ACA requirements.

Advanced Explanation of Benefits: The NSA requires plans and issuers to provide plan participants and beneficiaries with an advanced copy of an explanation of benefits (EOB) for a particular item or service, including a “good faith estimate” of what the plan or issuer will pay for the covered item or service, as well as an estimate of any cost-sharing required by the plan participant or beneficiary. This requirement was originally set to take effect on January 1, 2022, but the agencies will defer enforcement of this requirement until after additional guidance is issued. No additional guidance on advanced EOBs is expected before January 1, 2022.

Other Provisions: The effective dates for the NSA’s new requirements for health plan ID cards (requiring cost-sharing information to be printed on the cards), continuity of care (requiring temporary

in-network cost-sharing when a provider leaves a network), and provider directories (requiring them to be updated every 90 days), remain unchanged – January 1, 2022.

[Full text of FAQs \(Treasury, DOL, HHS, August 20, 2021\)](#)

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