



Healthcare Transparency Timing Requirements

In recent years, Congress and federal agencies have pushed for greater transparency into the cost of healthcare through the passage of the 2021 Consolidated Appropriations Act and Transparency in Coverage rules.¹ Group health plans must now disclose certain healthcare costs and other information to participants, to the general public, and in governmental filings, as follows:²

Current Requirements³

- **Machine-readable files:** Plans must post on a public website three machine-readable files, updated monthly, which disclose in-network provider rates, historical out-of-network allowed amounts, and negotiated rates and historical net prices for prescription drugs. Enforcement of the drug file requirement was on hold but is now in effect.⁴
- **Price-comparison tool:** As of the 2023 plan year, plans must provide an online tool for participants and beneficiaries that estimates their cost-sharing for 500 agency-specified items and services. Cost-sharing estimates must also be provided by phone or paper, upon request.
- **Pharmacy and health plan (RxDC) reporting:** By each June 1, plans must upload certain plan and drug-related information to CMS.gov.
- **No-gag clause attestation:** By each December 31, plans must attest at CMS.gov that they have not, after December 27, 2020, entered into a contract with a health care provider, network, third-party administrator, or other service provider offering access to a network of providers that would prevent disclosure of certain health care data to another party.
- **Provider directory:** Plans must maintain an online provider directory and respond to participants' requests about a provider's network status.
- **Health plan ID cards:** ID cards must disclose deductibles, out-of-pocket maximums, and the phone number and website to obtain consumer assistance.
- **Balance billing disclosure:** Plans must make publicly available, post on a public website, and include on each applicable explanation of benefits (EOB) a notice of participants' surprise billing protections.

Upcoming Requirements

- **Price-comparison tool expansion:** Beginning with the 2024 plan year, the tool must include data on all items and services.

¹ Consolidated Appropriations Act, 2021, [Pub. L. No. 116-260, 134 Stat. 1182 \(2020\)](#); Final Rule on Transparency in Coverage, [85 Fed. Reg. 72,158 \(Nov. 12, 2020\)](#).

² The items in this bulletin are current as of January 2024. Recent legislation ([H.R. 5378, 118th Cong. \(2023\)](#)) passed the U.S. House of Representatives on December 11, 2023 and would build upon these requirements. It is awaiting consideration in the Senate.

³ Many requirements may be satisfied by a third-party administrator acting on the plan's behalf, but the plan remains liable for any failures.

⁴ The agencies rescinded prior enforcement relief but said they "intend to develop technical requirements and an implementation timeline in future guidance that sufficiently account for any reliance interests that plans and issues may have developed." FAQs About Affordable Care Act Implementation, [Part 61 \(September 27, 2023\)](#).

On-Hold Requirements

- **Air-ambulance reporting:** Plans must annually report claims and other information regarding air ambulance services and providers to CMS. However, reporting is on hold until final regulations are issued.⁵
- **Advance EOBs:** Plans must provide participants and beneficiaries an advance EOB upon request or after the plan receives a good faith estimate from a provider with respect to an item or service. Enforcement of this requirement is on hold.⁶

From all of us here at MMPL, your employee benefits law firm.

Not intended as legal advice.

⁵ See CMS's [webpage](#) on air-ambulance data collection for additional information.

⁶ FAQs About Affordable Care Act and Consolidated Appropriations Act, 2021, [Part 49 \(Aug. 20, 2021\)](#).