

# CAA Transparency in Coverage Rules: What We Know

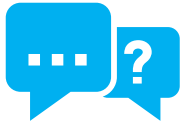
Wednesday, May 18, 2022  
12:00 - 12:30 PM



# Webinar Procedures



All lines will be muted



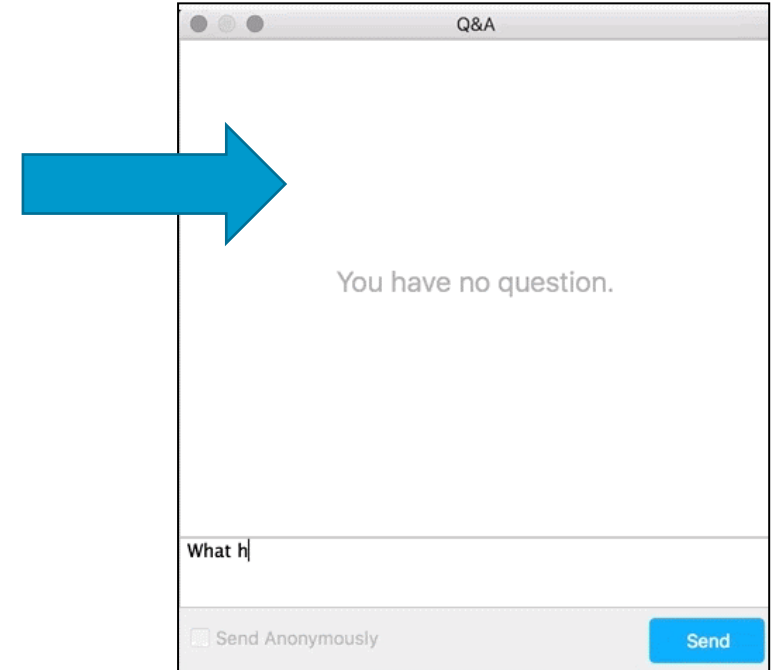
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The recording and a PDF of the slides will be shared



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# Price Transparency Rules under the Consolidated Appropriations Act, 2021

**Presented by:**  
**Cassandra Labbees**

May 2022

# The Consolidated Appropriations Act, 2021 (CAA)

## Introduction/Overview

- Enacted into law on December 27, 2020
  - *Combined \$900 billion in stimulus relief for the COVID-19 pandemic with a \$1.4 trillion omnibus spending bill for the 2021 fiscal year*
- The “No Surprises Act”
  - *Primarily protects individuals who involuntarily receive care from out-of-network providers*
    - *Emergency services, inpatients at an in-network facility, air ambulance services*
  - *Prohibits balance billing individuals*
  - *Creates Independent Dispute Resolution Process for health plans and providers to negotiate payment rates*
- The Mental Health Parity and Addiction Equity Act (MHPAEA)
  - *Requires plans to perform and document comparative analysis of the design and application of NQTLs*

# Health Plan Transparency in Coverage Rules

## Overview

- Non-grandfathered group health plans and health insurance issuers
- Disclosures of detailed pricing information through three machine-readable files:
  - ***In-Network Rate File*** – Negotiated rates for all covered items and services between the plan or issuer and in-network providers
  - ***Out-of-Network Allowed Amount File*** – Both the historical payments to, and billed charges from, out-of-network providers
    - Historical payments must have a minimum of twenty entries in order to protect consumer privacy
  - ***Prescription Drug File*** – In-network negotiated rates and historical net prices for all covered prescription drugs by plan or issuer at the pharmacy location level
    - This third file was added in the Final Rule, in order to break out prescription drugs that are paid for on a fee-for-service basis from the In-Network Negotiated Rate File

# Health Plan Transparency in Coverage Rules

## Disclosure Requirements – Starting July 1, 2022

- Machine Readable Files requirement initial effective date: January 1, 2022
- Effective date delayed by recent Department of Labor Guidance
  - *The DOL released a set of FAQs in August 2021 providing guidance regarding the CAA and Transparency Rules*
- The guidance stated two exceptions to the January 1, 2022 effective date
  - *Exception 1: enforcement of requirement that plans and issuers publish machine-readable files relating to prescription drug pricing is delayed pending further rulemaking*
  - *Exception 2: enforcement of requirement that plans and issuers publish the remaining machine-readable files is delayed until July 1, 2022*
- The guidance also provided that, for plan years beginning after July 1, 2022, plans and issuers should post the files in the month in which the plan year begins

# Specific Requirements

## Posting of “Machine-Readable Files”

- What is a “machine-readable file?”
  - *A machine-readable file is defined as “a digital representation of data or information in a file that can be imported or read by a computer system for further processing without human intervention, while ensuring no semantic meaning is lost.” 26 CFR § 54.9815–2715A1(a)(2)(xiv)*
  - *In other words, a machine-readable file is a digital representation of information in a file that can be read by a computer system or imported for further processing.*
- What is the proper format for a Machine-readable file
  - *“[A]ll machine-readable files must conform to a non-proprietary, open-standards format that is platform independent and made available to the public without restrictions that would impede the re-use of the information.” ([Source](#) pg. 85)*
  - *Although the Rules decided to not prescribe specific formats that must be used, [CMS guidance](#) provides examples:*
    - *xml and json files are acceptable*
    - *Microsoft Word, Excel, and PDF files are proprietary and therefore are NOT acceptable*



# Specific Requirements

## Posting of “Machine-Readable Files”

- The machine-readable files must be published on a “public website”
  - *The machine-readable files must be made publicly available and accessible to any person free of charge and without conditions, such as:*
    - *establishment of a user account, password, or other credentials; or*
    - *submission of Personally Identifiable Information (PII) to access the file.*
    - *26 CFR § 54.9815-2715A3(b)(2)*
- The information must be updated monthly
  - *Plans and issuers must “update the machine-readable files and information required by this paragraph (b) monthly.”*  
*26 CFR § 54.9815-2715A3(b)(3)*
  - *The Plan or Issuer must clearly indicate the date when the files were updated. 26 CFR § 54.9815-2715A3(b)(3)*

# Specific Requirements

## Prevention of Unnecessary Duplication

- Insured Group Health Plans: 26 CFR § 54.9815-2715A3(b)(4)(i)
  - *A plan sponsor and issuer may enter into a written agreement under which the issuer agrees to satisfy the machine-readable files requirements. If the issuer then fails to satisfy the requirements, it is the issuer who has violated the rules and not the plan. Only applies to insured group health arrangements where the issuer is independently subject to the rules*
- Third Parties: 26 CFR § 54.9815-2715A3(b)(4)(ii)
  - *A plan or issuer may contract with a health care claims clearinghouse, or other HIPAA-compliant entity to disclose the information on its behalf*
  - *However, if the party fails to provide full or timely information, the plan or issuer is considered to have violated the rules*
- Aggregation of Out-of-Network Allowed Amount Data 26 CFR § 54.9815-2715A3(b)(4)(iii)
  - *The rules allow plans and issuers to disclose out-of-network data that has been aggregated to include information from more than one plan or policy*
  - *However, the data for each plan or coverage included in the aggregated file must independently meet the minimum claim threshold of 20 claims for each item or service*
  - *If the Plan or Issuer does not post the files on its own website, it must post a link to where the files are located*

# Specific Requirements

## Good Faith Compliance

### ■ Errors/Omissions

- *“A group health plan or health insurance issuer will not fail to comply with this section solely because it, acting in good faith and with reasonable diligence, makes an error or omission in a disclosure required under [the machine-readable file provisions in] this section, provided that the plan or issuer corrects the information as soon as practicable.” 26 CFR § 54.9815-2715A3(c)(4)*

### ■ Website Accessibility

- *“A group health plan or health insurance issuer will not fail to comply with this section solely because, despite acting in good faith and with reasonable diligence, its internet website is temporarily inaccessible, provided that the plan or issuer makes the information available as soon as practicable.” 26 CFR § 54.9815-2715A3(c)(5)*

### ■ Reliance on Outside Information

- *“To the extent compliance with this section requires a group health plan or health insurance issuer to obtain information from any other entity, the plan or issuer will not fail to comply with this section because it relied in good faith on information from the other entity, unless the plan or issuer knows, or reasonably should have known, that the information is incomplete or inaccurate.” 26 CFR § 54.9815-2715A3(c)(6)*

# Employers

## How are others managing compliance?

- Self-Insured Employers:
  - *The regulations permit self-insured employers to contract for a TPA to create and maintain the files*
  - *However, the employer must still provide a link on its own public website to the location of the files*
  - *TPA-created Group Health Plan Site*
    - *Some TPAs are offering to create a site on the employer's behalf. However, some of these offers are conditioned on the fact the employer does not have its own public site.*
  - *Create their own Group Health Plan Site*
    - *If the employer cannot reach an agreement with a TPA to create a site, the employer may need to create their own public site for the group health plan*
    - *Absent additional guidance this may be the most viable option for employers*
  - *Link the files on their regular public facing site*
    - *Some employer have posted the files on their corporate public site*
    - *This runs into certain compliance issues, as the Tic Rules provide that the group health plan must make the files publicly available, and under ERISA a group health plan is a separate entity from the employer*
- Fully-insured Employers:
  - *The regulations permit the employer to contract with its carrier to satisfy the disclosure requirement.*

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Questions?



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