

HEALTH NEWS

2021 CONSOLIDATED APPROPRIATIONS ACT REQUIREMENTS

The Consolidated Appropriations Act became law on December 27, 2020 and introduces a host of new compliance requirements for Health and Welfare Funds. These items are outlined below.

Mental Health Parity and Addiction Equity Act (MHPAEA) Comparative Analysis

Effective February 10, 2021, group health plans that offer medical and surgical benefits as well as mental health or substance use disorder benefits with nonquantitative treatment limits (NQTLs) must be able to provide a detailed comparative analysis regarding compliance with the NQTL rule if requested from the Department of Labor (DOL), Health and Human Services (HHS) or any other applicable state agency.

In order to produce the comparative analysis, Funds should complete the Self Compliance Tool available on the DOL website. In addition, documentation should be provided by any medical and prescription benefit vendors supporting any NQTLs in place.

Prohibition of Gag Clauses

Under this provision, group health plans cannot enter into any agreement which either directly or indirectly restricts the plan from providing cost or quality of care information to providers, plan sponsors or individuals who are or may become participants in the Fund. Also, there may not be any restrictions on accessing deidentified claims and encounter information regarding participants. Reasonable restrictions on public disclosure are permitted.

Group health plans must submit an annual attestation indicating compliance with this rule. Funds should review and, where applicable, amend any agreements with third party administrators and other service providers who offer access to provider networks to ensure compliance with this rule. While this rule was effective on December 27, 2020, further guidance regarding the attestation process is expected.

Broker and Consultant Compensation Disclosure

Effective December 27, 2021, brokers and consultants must disclose any compensation, whether direct or indirect, and describe the services rendered to group health plans in writing to the plan fiduciary if direct or indirect compensation for such ser-

vices is expected to exceed \$1,000. This disclosure requirement applies whenever a contract is entered into, extended or renewed. There are special notice rules that apply when changes are made to either the fees or services.

Funds should review the status of all broker and consultant contracts and determine when those contracts need to be extended or renewed so that the required disclosures are provided in a timely manner.

Medical and Drug Cost Reporting

Effective December 27, 2021, group health plans must report on an annual basis information regarding medical and prescription drug costs and spending to the DOL, HHS and Treasury. The first report is due December 27, 2021 with annual reports due each June 1st for the preceding year.

Funds should use the report posted on the DOL, HHS and Treasury websites as a reference point to develop the required reporting.

Further Compliance Items

There are a number of other compliance requirements which will become effective during 2022 including the following:

- Surprise Billing and Independent Dispute Resolution
- Surprise Air Ambulance Bills
- External Review for Surprise Billing
- ID Cards with Deductibles and Out-of-Pocket Information
- Protections Against Provider Discrimination
- Advance Explanation of Benefits (EOBs)
- Continuity of Care
- Price Comparison Tool
- Provider Directory and Coverage Information Requests

Future newsletters addressing these topics will be distributed as their effective dates draw near.

If you have any questions please contact us at 484-530-0692 or by email to Karen Crossin at karen.crossin@mckeogh.com

IMPORTANT:

This newsletter is meant to discuss important topics, but is not meant to be an authoritative description of any law.

Legal counsel should be consulted before taking any action in connection with compliance with any law.

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