



# The Transparency in Coverage Act (TiC) of 2020

July 10, 2024

*This presentation does not constitute legal advice.  
Please consult legal & tax counsel re: specific  
guidance for benefit Plan actions based upon the facts  
& circumstances of the inquiry.*

# Agenda – The TiC of 2020

- Review the Law
- TiC Requirements for Health Plans
  - Machine-Readable Files
  - Price Comparison Tool
- Best Practices



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# Benefits Compliance at Patriot



<b>Educate</b>	...stakeholders.
<b>Train</b>	...on fundamental concepts in EB Compliance.
<b>Address</b>	... current events as applied to EB Compliance.
<b>Serve</b>	...as a resource for complex issues.
<b>Provide</b>	...value-enhancing content for employees & clients.



# The Transparency in Coverage (TiC) Act

*Enacted November 12, 2020; effective January 11, 2021*

*Amended the ACA & Public Health Services Acts*

“Health plan price transparency helps consumers know the cost of a covered item or service before receiving care.”

~ Centers for Medicare & Medicaid (CMS)



# The Transparency in Coverage (TiC) Act

*Enacted November 12, 2020; effective January 11, 2021*

*Amended the ACA & Public Health Services Acts*

“Ensure the accurate and timely disclosure of information appropriate to support an efficient and competitive health care market. A well-functioning, competitive market depends on information being available to buyers and sellers.”

~ Federal Register (85 FR 72158)





## The Transparency in Coverage (TiC) Act

*Enacted November 12, 2020; effective January 11, 2021*

*Amended the ACA & Public Health Services Acts*

2 disclosure requirements for Plans & health insurance issuers in individual & group markets:

1. **cost-sharing information** upon request...including an estimate of the individual's cost-sharing liability for covered items or services furnished by a particular provider.
2. **in-network provider negotiated rates**, historical out-of-network allowed amounts, and drug pricing information through three machine-readable files posted on an internet website



# The TiC's Implementation Timeline



January 11, 2021 → Effective Date of Final Rule



July 1, 2022 → Machine-Readable Files (MRF) pricing data due (enforcement delayed\*)



January 1, 2023 → Internet-Based Price Tool (500 items & services)



January 1, 2024 → Internet-Based Price Tool (remaining items & services)



# Plans & Issuers Compliance

**The Transparency in Coverage (TiC) Act**

## TiC - Group Health Plan Obligations

- ✓ **Price Comparison Tool**
  - ✓ List of items/services
  - ✓ **TiC → via paper & internet**
    - ✓ **CAA → via internet, paper, & phone\***
  
- ✓ **3 Machine Readable Files (MRFs)**

## **Who MUST COMPLY?**

**Health Insurance Issuers Offering Non-grandfathered Coverage in the Group and Individual Markets (including through the Exchanges)**

**Non-grandfathered Group Health Plans**

**Grandmothered Plans**



# Plans that DO NOT Need to Meet TiC Requirements

**Grandfathered  
Plans**

**Excepted Benefits**

**Short-term,  
Limited-Duration  
Plans**

**Retiree-only Plans**

**Medicare,  
including Medicare  
Advantage**

**Medicaid, including  
Medicaid Managed  
Care Organization  
plans**

**Flexible Spending  
Accounts (FSA)**

**Health Reimbursement  
Arrangements (HRAs),  
including ICHRAs and  
QSEHRAs**

**Health Savings  
Accounts (HSAs)**

# Plan & Issuer Obligations

## 1. Machine Readable Files (MRF) Requirement

- ✓ Require plans and issuers to disclose:
  - ✓ in-network provider negotiated rates,
  - ✓ historical out-of-network allowed amounts, and
  - ✓ drug pricing information\*
- ✓ 3 MRFs posted on an internet website
  - ✓ In-Network Rate MRF
  - ✓ Out-of-Network Allowed Amount MRF
  - ✓ Negotiated Rates & Historical Prices



“ Allow the public to have access to health coverage information. . . to understand health care pricing and potentially dampen the rise in health care spending.” – Dept. of HHS



# Plan & Issuer Obligations

1. In-Network Provider Rates for Covered Items & Services
2. Out-of-Network Allowed Amt. & Billed Charges for Covered Items & Services
3. Negotiated Rates & Historical Net Prices for Covered Rx Drugs\*



**STAGE 1** **Common Data Elements in Both In-network Rate and Out-of-network Allowed Amount MRFs\***

<b>General Information</b>
<ul style="list-style-type: none"> <li>▪ Name of Reporting Entity</li> <li>▪ Type of Entity</li> <li>▪ Date of Last File Update</li> </ul>

<b>Identification of Providers &amp; Place of Service</b>
<ul style="list-style-type: none"> <li>▪ Individual Provider Identifier (National Provider Identifier (NPI) Type 1)</li> <li>▪ Provider Group Identifier (NPI Type 2)</li> <li>▪ Tax Identification Number (TIN)</li> <li>▪ Place of Service Code</li> </ul>

<b>Identification of Plan or Coverage</b>
<ul style="list-style-type: none"> <li>▪ Plan or Coverage Name</li> <li>▪ Plan Identifier</li> <li>▪ Type of Plan Identifier</li> <li>▪ Type of Plan Market</li> </ul>

<b>Identification of Items and Services</b>
<ul style="list-style-type: none"> <li>▪ Billing Code</li> <li>▪ Type of Billing Code</li> <li>▪ Billing Code Type Version</li> <li>▪ Covered Items and Services</li> <li>▪ Plain Language Description</li> </ul>

\* OMB Control Number 0938-1372 (CMS-10715, Transparency in Coverage Appendix). Accessed at: <https://www.cms.gov/regulations-and-guidance/legislation/paperworkreductionactof1995pra-listing/cms-10715>

# STAGE 1 Data Elements Specific to Each MRF\*

In-network Rate MRF
<b>For Each Covered Item and Service, Applicable In-network Rates**</b>
<ul style="list-style-type: none"> <li>• Negotiation Arrangement (fee-for-service, bundle, capitation)</li> <li>• Bundled Codes (if applicable)</li> <li>• Covered Services (if capitation and applicable)</li> <li>• Negotiated Type (negotiated, derived, fee schedule, percentage, per diem)</li> <li>• Negotiated Rate (dollar or percentage amount)</li> <li>• Negotiated Expiration Date</li> </ul>
Identification of Items and Services
<ul style="list-style-type: none"> <li>▪ Payment Arrangement Indicator</li> </ul>

Out-of-network Allowed Amount MRF
<b>Out-of-network Allowed Amounts and Historical Billed Charges</b> during the 90-day time period that begins 180 days prior to the publication date of the MRF
<ul style="list-style-type: none"> <li>▪ Unique Out-of-network Allowed Amount</li> <li>▪ Billed Charge</li> </ul>

\*\*Elements defined in technical implementation guidance on GitHub available at: <https://github.com/CMSgov/price-transparency-guide/tree/master/schemas/in-network-rates>

\*OMB Control Number 0938-1372 (CMS-10715, Transparency in Coverage Appendix). Accessed at: <https://www.cms.gov/regulations-and-guidance/legislation/paperworkreductionactof1995pra-listing/cms-10715>



# Plan & Issuer Obligations

## 2. Price Comparison Tool

- ✓ Stage 2:
  - ✓ First 500 items & services for plan/policy years beginning on or after January 1, 2023
- ✓ Stage 3:
  - ✓ For all covered items & services for plan/policy years beginning on or after January 1, 2024





## Internet-based Price Comparison Tool Requirements

- The internet-based price comparison tools must:
  - Permit members to search cost-sharing information for specific health care items and services based on billing code or description.
  - Allow members to compare costs across both in-network and out-of-network providers.
  - Inform members of the individual's status related to plan or policy "accumulators" to date (e.g., deductibles, out-of-pocket maximum, visit limits, etc.).
  - Allow members to search by factors that impact cost, such as service location, facility name, or drug dosage.
  - As an alternative, plans and issuers must provide cost estimates in paper format at the member's request.



“ ..meaningful cost-sharing liability information.”

– [FAQ Part 61](#)





# Clarifying Confusion with the CAA

**What do the Departments now say about:**

1. Duplicative Rx Data in Price Comparison Tool?
2. Enforcement Delay for MRFs?



# FAQ Part 61 – September 27, 2023

## 1. Duplicative Data in Price Comparison Tool?

- ✓ CAA of 2021 also requires Rx data per the RxDC reporting requirement.
  - ✓ Some duplicative, but both must be met by plans
- ✓ CAA added price comparison guidance **by telephone**.
  - ✓ The TiC requires it via internet & paper\*
    - ✓ To participant, beneficiary, or enrollee
    - ✓ May limit responses to no fewer than 20 per request





# FAQ Part 61 – September 27, 2023

## 2. Enforcement delay for MRFs?

- ✓ April 2022 enforcement safe harbor for those “unable to comply for specified reasons.”

“Alternative reimbursement arrangements that do not permit the plans and issuers to derive with accuracy specific dollar amounts contracted for covered items and services in advance of the provision of that item or service, or when the plan or issuer otherwise cannot disclose specific dollar amounts according to the schema as provided by Depts.”





# FAQ Part 61 – September 27, 2023

## 2. Enforcement delay for MRFs?

- ✓ What about the Nov. 2021 RxDC Guidance?
- ✓ Q1 of the FAQ:

“ There is no meaningful conflict between the reporting requirements in section 204 of division BB of the CAA and the TiC Final Rules, because the CAA requires disclosure of different and additional information than required in the TiC Final Rules.”



## FAQ Part 61 – September 27, 2023

### 2. Enforcement delay for MRFs?

- ✓ Q2 of the FAQ: This means there is no longer a safe harbor, unless on a specific case-by-case basis.
- ✓ Only exception is likely an “extremely difficult or impossible” situation where a plan or issuer cannot comply.





## What is the penalty for failure to comply?

- ✓ Corrective actions and/or imposing a civil monetary penalty up to \$100 per day, adjusted annually for each violation and for each individual affected by the violation.
- ✓ Plans And Issuers | CMS



## Plan best practices

- ✓ Self-funded plans may contract with a third-party administrator to implement some/all requirements of on behalf of the plan, yet remain liable as fiduciaries
- ✓ Fully-insured plans rely on issuer for compliance, yet should verify
- ✓ Review provider contracts
- ✓ Annually review public website links
- ✓ All plans should have a process in place to answer paper requests for data.
- ✓ Train pertinent staff

## Transparency in Coverage Act (TiC)





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∨ [Q: What is the Transparency in Coverage \(TiC\) Act?](#) 

∨ [Q: I don't understand the Machine-Readable File \(MRF\) requirement under the TiC. What is it?](#)

∨ [Q: Who is required to comply with the Price Comparison Tool?](#)

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September – Cafeteria Plans & Nondiscrimination Testing  
October – HIPAA Privacy for Plans  
November – HIPAA Security for Plans  
December – A Look Ahead at 2025



**Thank you!**



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