



The CAA Revisited

May 8, 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 CAA revisited

- Review the Law
- CAA Requirements for Health Plans
- Details for three requirements
- Review of resources



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

The Consolidated Appropriations Act

Enacted December 27, 2020; effective January 1, 2021

Amended the Public Health Services Act

“Establish protections for consumers related to surprise billing and transparency in health care.”

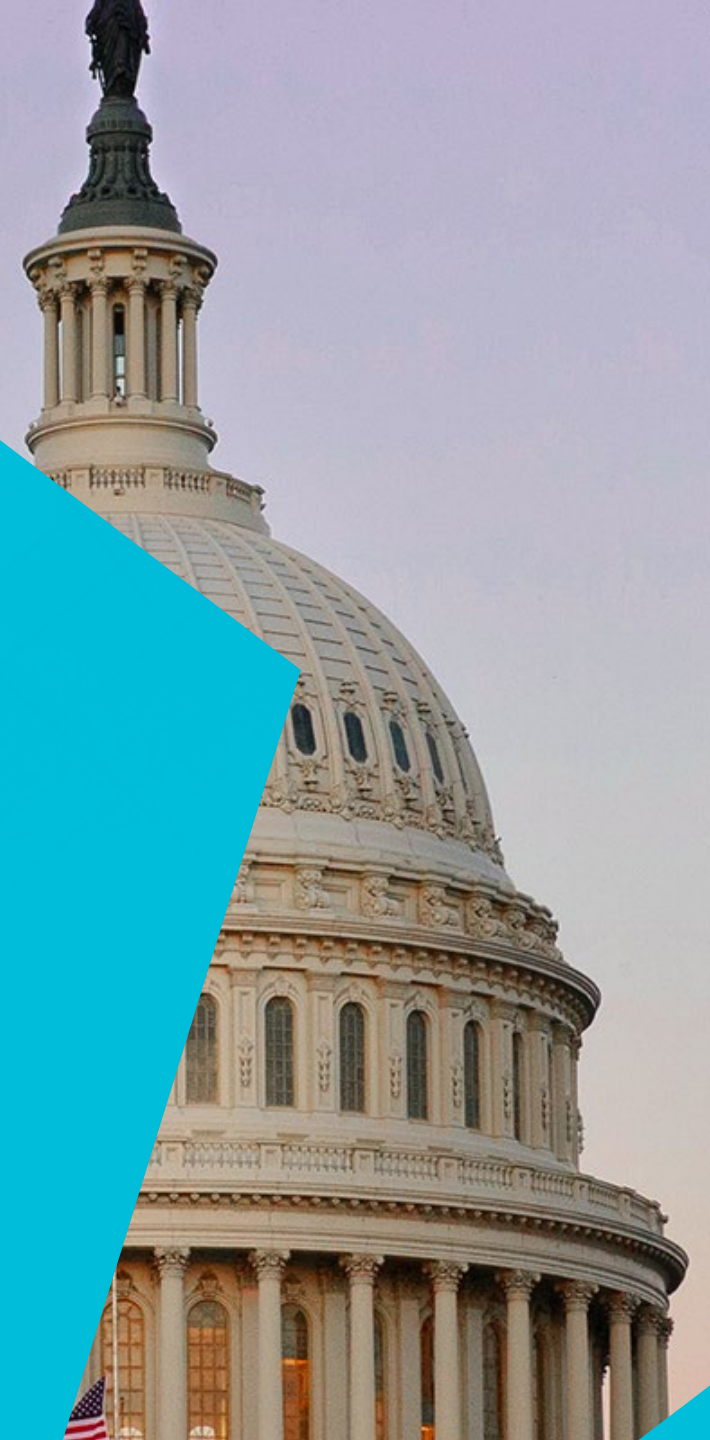


The Consolidated Appropriations Act

Enacted December 27, 2020; effective January 1, 2021

Amended the Public Health Services Act

- Title I – No Surprises Act
- Title II – Transparency
- Appropriations for
 - Group Health Plans
 - COVID-19 Relief
 - Student Loan Repayment
 - Retirement Plan Safe Harbors



CAA's Underlying Goals



Accountability → insurers, providers, & plan sponsors



Cost Savings → ease financial burden on patients



Transparency → pricing, notices, & agreements

Roles & Responsibilities

The Consolidated Appropriations Act

Who is subject to CAA provisions?

All Group Health Plans

- ✓ Employer-sponsored medical
- ✓ Grandfathered
- ✓ Non-federal government
- ✓ Church

Except...

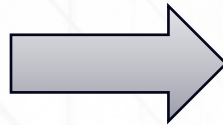
- ⊘ Excepted benefits
- ⊘ Short-term limited duration insurance
- ⊘ HRA & account-based plans



Who is responsible for CAA submissions?

What's the Plan Type?

- ✓ Fully Insured
- ✓ Self-Funded
 - ✓ Includes Level funding
- ✓ Multiple Employer Welfare Arrangements (MEWAs)



Why does it Matter?

- ✓ Insurer complete, yet ER confirm
- ✓ Ultimate fiduciary duty for submission
 - ✓ *Act as self-funded plan*
- ✓ Ask – is the MEWA or each employers sponsoring plan?

Group Health Plans

Applicable CAA Provisions

CAA Group Health Plan Obligations

- ✓ No Surprises Act
 - ✓ Prohibits “Surprise Balance Billing”
 - ✓ *(ER Services; Non-ER Services at OON; Air Ambulance Services)*
- ✓ Independent Dispute Resolution Process (IDR)
 - ✓ Qualifying Payment Amount (QPA) – cost sharing
 - ✓ Remittance Advice Remark Codes (RARC’s)
- ✓ Patient-Provider Dispute Resolution



CAA Group Health Plan Obligations

- ✓ Continuity of Care when Provider Contract terminates
- ✓ Designation of willing, in-network PCP, pediatrician, or gyno.
- ✓ ID Card updates
- ✓ Advanced EOBs
- ✓ Good faith estimate of expected charges
- ✓ Coverage of emergency services for all GHPs.
- ✓ Updating provider directories
- ✓ NQTL Analysis for MHPAEA



CAA Group Health Plan Obligations

- ✓ Price Comparison Tool
 - ✓ **CAA → via internet & phone***
 - ✓ TiC → via paper & internet
- ✓ TiC Machine Readable Files (MRFs)
 - ✓ List of 500 items/services

CAA Group Health Plan Obligations

Transparency Provisions:

- ✓ Gag Clause Removal Attestation
- ✓ Rx Drug & Healthcare (RxDC) Spending Report
- ✓ Broker Compensation Disclosures
- ✓ Air Ambulance Reporting (*proposed rules*)
 - ✓ Providers, Plans, & Issuers: report detailed data for costs & incurred charges



CAA Group Health Plan Obligations

Broker Compensation Disclosures

- ✓ All direct & indirect compensation
- ✓ Obligation rests with employer & provider
- ✓ *Covered Service Providers:*
 - ✓ Brokers
 - ✓ Consultants
 - ✓ Advisor, and their...
 - ✓ Affiliates &
 - ✓ Subcontractors




Where do we go?

How to Comply

Broker Compensation Disclosure Details

- ✓ Applicable to *covered service providers*
- ✓ Received at least **\$1,000** in direct/indirect compensation for services
 - ✓ Not include **\$250 or less non-monetary** value
- ✓ **Direct** → from the Plan
- ✓ **Indirect** → any source other than plan, plan sponsor, service provider, or affiliate
- ✓ **Must disclose** in writing:
 - ✓ Services, including any as fiduciary
 - ✓ All compensation (including transaction basis or from affiliates or subcontractors)
 - ✓ In advance of new contract, or each renewal or extension

PATRIOT 

Compensation Disclosure under ERISA
By [Insert name of Partner Agency]

Name of Covered Plan: [Insert Group Name] |
Plan Sponsor: [Insert Name of Employer]
Responsible Plan Fiduciary: [Insert Name of Employer]
Name of Representative: [Broker/Agent Name]

Dear [Insert Name of Employer]:

The Consolidated Appropriations Act of 2021 (CAA) requires¹ Covered Service Providers (Provider(s)), including brokers, consultants and those who provide "brokerage or consulting services" to Group Health Plans (Plan(s)), to disclose certain data² to a responsible Plan fiduciary about direct and indirect compensation they expect to receive³ in connection with Provider services to the Plan. ERISA requires Plans and their Providers to always maintain "reasonable" contracts or arrangements.

The information in this document will help you determine whether the contracts or arrangements you have with us are reasonable, including the compensation we receive.

Patriot Growth Insurance Services (PGIS) is made up of many partner agencies, including Insert Agency Name. The compensation data provided herein relates to the services Insert Agency Name provides to your Plan(s). However, where specified, the compensation information relates to PGIS.

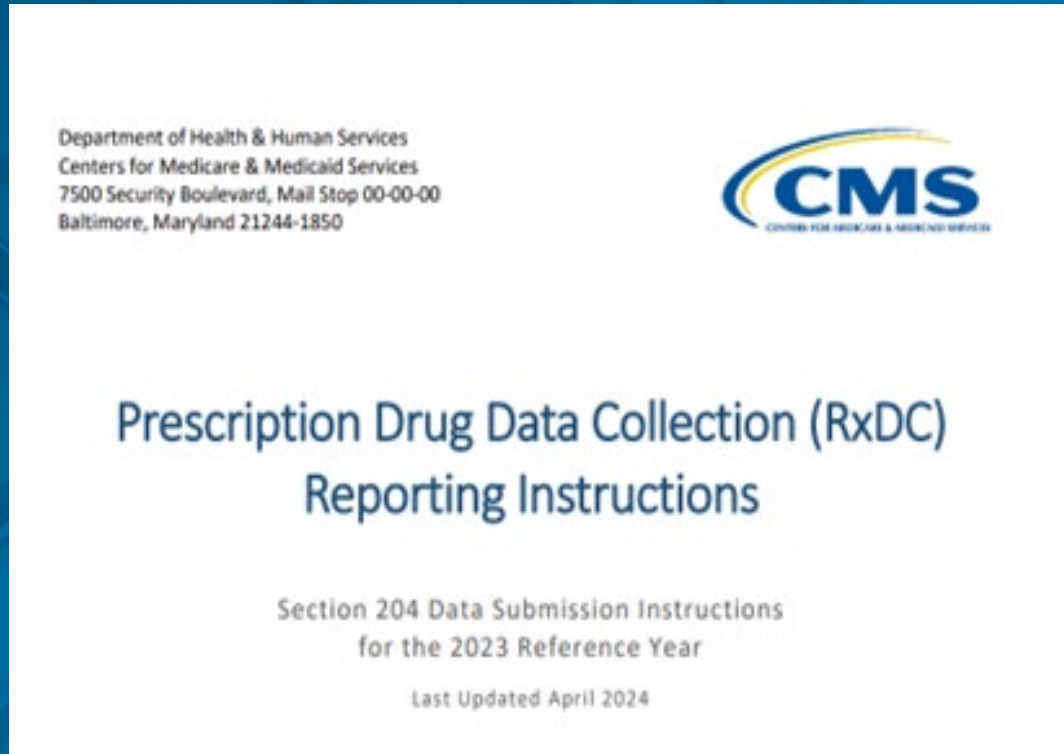
If you have questions about this disclosure, please contact us at the number below for assistance. You may also write to us and request information concerning our compensation to assist you in compliance with your Plans' reporting requirements.

Sincerely,

[Name/Phone Number/Email Address of Broker/Agent]

A. **Services**, The following Services are provided to your Plan as outlined in **[insert Service Agreement Name and timeframe]**

RxDC Reporting Details



- ✓ All group health plans
- ✓ Submit **by June 1** annually; previous year data
- ✓ **Instructions** revised in 2024
 - ✓ Detailed article
- ✓ **Must submit online** via CMS HIOS portal
- ✓ **Fully insured** rely on insurers to submit
- ✓ **Self-funded** may use TPA on behalf with written assurance (Section 3.3)
- ✓ Not applicable to
 - ✓ Account-based plans
 - ✓ Excepted benefits
 - ✓ Medicare/Medicaid/State/Retiree-only plans

What information do insurance companies & employers submit to CMS?

- ✓ Spending on prescription drugs and health care services
- ✓ Prescription drugs that account for the most spending
- ✓ Drugs that are prescribed most frequently
- ✓ Prescription drug rebates from drug manufacturers
- ✓ Premiums and cost-sharing that patients pay

Gag-Clause Prohibition Attestation Details

- ✓ All group health plans
- ✓ **By December 31** annually
- ✓ Must submit via CMS online
 - ✓ By a person who can attest for company
- ✓ **Instructions** on CMS website
- ✓ **Issuer** → attest on its own behalf (1.2.1)
- ✓ **Plan** → attest on its own behalf (1.2.2)
- ✓ **Fully -insured** → rely on issuer to complete but need to confirm
- ✓ **Self-funded** → must enter into written agreement with plan provider to attest on its behalf.

U.S. Department of the Treasury
U.S. Department of Labor
U.S. Department of Health & Human Services



Gag Clause Prohibition Compliance Attestation

Annual Submission Instructions

December 2023
version 5

What provisions are prohibited in network contracts?

Prohibit group health plans & health insurance issuers offering group health insurance coverage from entering into an agreement with a health care provider, network or association of providers, third-party administrator (TPA), or other service provider offering access to a network of providers that...**directly or indirectly restrict a plan or issuer from—**

- (1) **providing provider-specific cost or quality of care information** or data...
- (2) **electronically accessing de-identified claims**
 - (i) **financial information**, such as the allowed amount, or any other claim-related financial obligations included in the provider contract;
 - (ii) **provider information**, including name and clinical designation;
 - (iii) **service codes**; or
 - (iv) **any other data element included in claim** or encounter transactions; or
- (3) **sharing information** or data described in (1) and (2)... or with a business associate

Consolidated Appropriations Act (CAA)



Olivia Ash
Compliance Manager - EB

- ∨ Q: What is the CAA?
- ∨ Q: Does my agency have to comply with the CAA Broker Disclosure Rules?
- ∨ Q: What is the Gag Clause Prohibition Attestation under the CAA and does my client need to submit it?
- ∨ Q: What is the RxDC Report under the CAA?



Like



18 Views



Save for later



June – ERISA's Fiduciary Duties

July – Transparency in Coverage (TiC) Act

August – Federal Family & Medical Leave Basics

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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