

# CAA Benefits Alert: New Health Plan Reporting on Pharmacy Benefits and Drug Costs

DECEMBER 29, 2020

The Consolidated Appropriations Act, 2021 (CAA) adds a new annual reporting requirement that requires every group health plan and every health insurance issuer that offers group or individual health insurance to submit an informational report on pharmacy benefits and drug costs with the Secretary of Health and Human Services (HHS), the Secretary of Labor, and the Secretary of the Treasury. Church plans are exempt from this reporting requirement.

## Timing of Informational Reports

The informational report must be submitted no later than one year following the date of enactment of the CAA (December 27, 2020). Subsequent reports would need to be filed no later than June 1 of every subsequent year.

## Contents of Informational Report

The informational reports must include the following data:

- The beginning and end dates of the plan year.
- The number of enrollees.
- Each state in which the plan or coverage is offered.
- The 50 brand prescription drugs most frequently dispensed by pharmacies for claims paid by the plan or coverage and the total number of paid claims for each such drug.
- The 50 most costly prescription drugs with respect to the plan or coverage by total annual spending and the annual amount spent by the plan or coverage for each such drug.
- The 50 prescription drugs with the greatest increase in plan expenditures over the plan year preceding the plan year that is the subject of the report and, for each such drug, the change in amounts expended by the plan or coverage in each such plan year.

- Total spending on healthcare services by such group health plan or health insurance coverage, broken down by the types of costs, including (1) hospital, healthcare provider, and clinical service costs, for primary care and specialty care separately; (2) costs for prescription drugs; and (3) other medical costs, including wellness services. In addition to types of costs, spending on prescription drugs would need to be broken down by the health plan spend and the participants' and beneficiaries' spend.
- The average monthly premium paid by employers on behalf of enrollees, as applicable, and that paid by enrollees.
- The impact on premiums by rebates, fees, and any other compensation paid by drug manufacturers to the plan or coverage or its administrators or service providers, with respect to prescription drugs prescribed to enrollees in the plan or coverage, including the amounts paid for each therapeutic class of drugs, and the amounts paid for each of the 25 drugs that yielded the highest amount of rebates and other compensation under the plan or coverage from drug manufacturers during the plan year.
- Any reduction in premiums and out-of-pocket costs associated with rebates, fees, or other compensation described in the preceding paragraph.

## Public Reporting

The CAA requires that the Secretary of HHS make available on the Department of HHS website a report on prescription drug reimbursements under group health plans and group and individual health insurance coverage, prescription drug pricing trends, and the contribution of prescription drug costs to premium increases or decreases under such plans or coverage. This information is to be aggregated in such a way that no drug or plan specific information will be made public. The initial public report is required to be issued no later than 18 months after the first informational report is submitted (which is required within one year following enactment of the CAA). Subsequent public reports are to be issued biannually.

## Protection of Confidential Information and Trade Secrets

The CAA provides that no confidential information or trade secrets will be included in the public reporting.

**Winston Takeaway:** *Given the volume of information and the expectation that reporting will be required before the end of 2021, plan sponsors and health plan issuers will need to begin considering putting in place mechanisms to ensure the appropriate data will be collected in order to complete the required reporting. In addition, it is likely that vendor agreements, such as pharmacy benefit management and administrative services agreements, will need to be revisited to ensure data collection and reporting expectations are appropriately reflected and necessary protections are in place. Despite the additional reporting burden, plan sponsors may find the public reporting helpful in benchmarking and managing drug costs.*

**This article is part of our “Unpacking the Employee Benefits Provisions in the Consolidated Appropriations Act, 2021” series. Click [here](#) for other CAA-related articles. Please contact a member of the Winston & Strawn Employee Benefits and Executive Compensation Practice Group or your Winston relationship attorney for further information.**

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