

COMPLIANCE ALERT

Agencies Issue End-of-the-Year “Good Faith” Enforcement Relief on CAA Rx Reporting

December 27, 2022

Action Required:

- Review updated guidance.
- Ensure CAA Rx reporting has been or will be completed by Jan. 31, 2023.

On December 23, 2022, just three days before the December 27 deadline, the government agencies (“Agencies”) implementing the prescription drug reporting provisions of the Consolidated Appropriations Act, 2021 (CAA) issued [FAQ guidance](#) (“Guidance”) providing much-welcomed “good faith” enforcement relief for employers, plan sponsors, insurers and other plan service providers completing the reporting, and extending the initial filing deadline to **January 31, 2023**.

How Does this Guidance Change the Rules for Employers and Plan Sponsors?

The Guidance provides two main forms of compliance relief for employers and plan sponsors:

- 1) It allows for “good faith” enforcement relief for the initial reporting.
- 2) It extends the initial filing deadline until **January 31, 2023**.

The Agencies also noted other compliance relief and “flexibilities” available in the reporting rules and Instructions. For example, the Guidance allows for optional reporting on vaccines, and it clarifies the permissibility of multiple submissions and multiple reporting entities.

What Should Employers and Plan Sponsors Do Next?

The extended reporting deadline of January 31, 2023 is still relatively “right around the corner.”

Accordingly, your organization, whether sponsoring a fully insured or self-insured health plan, should ensure that the reporting has been completed or will be completed in a timely manner. ■

Agencies Issue End-of-the-Year “Good Faith” Enforcement Relief on CAA Rx Reporting

On December 23, 2022, just three days before the December 27 deadline, the government agencies (“Agencies”) implementing the prescription drug reporting provisions of the Consolidated Appropriations Act, 2021 (CAA) issued [FAQ guidance](#) (“Guidance”) providing much-welcomed “good faith” enforcement relief for employers, plan sponsors, insurers and other plan service providers completing the reporting, and extending the initial filing deadline to January 31, 2023.

How Does this Guidance Change the Rules for Employers and Plan Sponsors?

As background, and as explained in more detail in our last [compliance alert](#) on this topic, the CAA requires that health plans and issuers report, on an annual basis, certain prescription drug and health care spending information. The first reporting (for 2020 and 2021 compliance years) was originally due in December 2021, but was delayed to December 27, 2022.

This reporting, which is required to be done in coordination with each plan’s various service providers and uploaded to a Centers for Medicare and Medicaid Services (CMS) website portal, has been challenging for many employers and plan sponsors, and in particular, for sponsors of self-insured health plans with a carved-out or carved-in PBM for whom, in some cases, the applicable carriers, third-party administrators (TPAs) and other service providers have not been assisting with the reporting.

The Guidance provides two main forms of compliance relief for employers and plan sponsors:

- 1) **It allows for “good faith” enforcement relief for the initial reporting.** Specifically, for the 2020 and 2021 data submission years that are due by December 27, 2022, the Departments will not take enforcement action with respect to any plan or issuer that uses a good faith, reasonable interpretation of the [regulations](#) and the [Prescription Drug Data Collection \(RxDC\) Reporting Instructions](#) (“Instructions”) in making its submission. Additional information about these reporting requirements can be found in our [compliance alert](#) on this topic.
- 2) **It extends the initial filing deadline until January 31, 2023.** The Agencies’ Guidance also provided for a “submission grace period” through January 31, 2023. Specifically, the Agencies stated that it will not consider a plan or issuer to be out of compliance with these requirements provided that a good faith submission of the 2020 and 2021 reporting data is made on or before that date.

In addition to these changes, the Agencies noted other compliance relief and “flexibilities” available in the reporting rules and Instructions. For example, the Guidance allows for optional reporting on vaccines, and it clarifies the permissibility of multiple submissions (by one reporting entity on behalf of more than one plan or issuer) and multiple reporting entities (for the same plan or issuer). The Agencies will also allow certain limited information to be reported via email.

Why did the Agencies Provide this Relief?

The Agencies explained that they issued these new rules in the Guidance to accommodate employers and plan sponsors given that so many had faced considerable difficulties complying with these new CAA reporting requirements, including (as explained in the Guidance) difficulties with “arranging and coordinating submission of a plan’s or issuer’s data across multiple reporting entities, and accurately classifying, compiling, and validating the required data.”

What Should Employers and Plan Sponsors Do Next?

While the enforcement relief in the Guidance is much welcomed by employers and plan sponsors, the extended reporting deadline of January 31, 2023 is still relatively “right around the corner.” Accordingly, your organization, whether sponsoring a fully insured or self-insured health plan, should ensure that the reporting has been completed or will be completed in a timely manner. ■

If you have any additional questions, please call your Corporate Synergies Account Manager or 866.CSG.1719.