

COMPLIANCE ALERT

REMINDER: PRESCRIPTION DRUG REPORTING DUE BY JUNE 1

May 15, 2023

Action Required:

- **Make sure to file your plans' Rx Reporting with CMS by June 1, 2023.**
- **Your Corporate Synergies Account Manager can assist you with this year's reporting requirements.**

While it probably feels like we just finished the Rx Reporting required under the CAA (because group health plans were required to complete reporting for the 2020 and 2021 reference years by January 31, 2023), the deadline for reporting on the 2022 reference year is right around the corner—June 1, 2023.

This time around (for the 2022 reference year), the Rx Reporting requirements are a bit different because the agencies enforcing this requirement recently revised the reporting Instructions to make a few clarifications and to eliminate certain good faith enforcement relief (these changes and clarifications are discussed in more detail below).

What Should Employers and Plan Sponsors Do Next?

It is important to note that no extension of the June 1 deadline has yet been announced, and so, you should ensure that your organization or its plan service providers are prepared to complete this reporting in a timely manner. Additionally, some insurance carriers, TPAs and other plan service providers have issued their own different rules and requirements about the information that they are willing to provide and assist with. In light of this, it's important to speak with your plans' service providers and trusted advisors about this year's reporting to ensure that it will be completed correctly. Your Corporate Synergies Account Manager is prepared to assist your organization with this process. ■

↓ Full Explanation Follows ↓

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Reminder: Prescription Drug Reporting Due by June 1

While it may seem like employers and plan sponsors just finished last year's Prescription Drug Reporting ("Rx Reporting") required under the Consolidated Appropriations Act, 2021 (CAA), the 2022 reference year's reporting deadline is just around the corner—June 1, 2023.

It probably feels like we just finished this because group health plans were required to complete Rx Reporting for the 2020 and 2021 reference years by January 31, 2023. However, because the agencies enforcing the Rx Reporting requirement recently revised their [Instructions](#) for reporting the 2022 year's data, the 2022 reporting due on June 1 is a bit different this time around.

As background, and as explained in prior E-Alerts ([here](#) and [here](#)), the CAA requires that group health plans and issuers report, on an annual basis, certain prescription drug and health care spending information to the DOL, HHS, and Treasury (the "Agencies"). The Rx Reporting is completed in coordination with the plan's insurers, third party administrators (TPAs) and other service providers and is uploaded to a dedicated Centers for Medicare and Medicaid Services (CMS) website called the [Enterprise Portal](#).

While the main reporting requirements will remain the same as last year's, there are some changes for reporting the 2022 data of which employers and plan sponsors should be aware, and these are summarized below:

- **No Good Faith Efforts Relief:** For the 2020 and 2021 reference year's reporting, the agencies confirmed in [FAQ Guidance](#) that they would not take enforcement action against health plans or issuers that utilized good faith efforts and a reasonable interpretation of the regulations to complete their required reporting. To date, the agencies have not announced similar "good faith" relief for 2022 reporting. Additionally, the limited exception for plans to report certain information for 2020 and 2021 via email (instead of uploading the information to the CMS Enterprise Portal) does not apply for the 2022 reference year's reporting.
- **No Nonenforcement Relief for Reporting Average Monthly Premium Paid by Employers Compared to Members:** Plans are required to report the average monthly premium paid by employers compared to members. The prior Instructions offered nonenforcement relief for 2020 and 2021 with respect to this component of the reporting data, noting that some reporting entities could have difficulty in obtaining this information. The revised Instructions for 2022 reporting do not offer similar nonenforcement relief.
- **Confirmation that Multiple Vendors Can Submit Same Data File Type for the Same Plan:** For the 2022 reporting, the Agencies confirmed that while plans are "encouraged" to submit only one data file of each data file type for the same plan, if plan service providers are unable to work together to complete a single data file for a plan, it will be permissible for more than one reporting entity to submit the same data file type on behalf of the same plan. For example, where a plan has separate insurance carriers—one for mental health benefits and one for medical benefits—both insurers can submit a D2 file ("Spending by Category") on behalf of the same plan (the first insurer would report the plan's data relating to mental health benefits and the second would report the plan's data relating to medical benefits).

- **Self-insured Plans Cannot Rely on COBRA Rate to Determine Total Plan Cost:** Self-insured plans are required to report the total cost of providing and maintaining coverage for the reference year. For 2020 and 2021 reporting, the Instructions stated that plans could use the same costs taken into account for purposes of calculating the COBRA premium (minus any administrative charge) to determine the total plan cost. For 2022 reporting, the revised Instructions clarify that plans cannot necessarily rely on the COBRA rate to calculate the total annual cost. Instead, plans are now required to calculate and report the total annual cost actually paid for the reference year, rather than the amounts used to set the COBRA rate.

What Should Employers and Plan Sponsors Do Next?

While the revised Instructions do offer some welcome clarifications, it's important to remember that there is no good faith relief this year and no extension of the June 1 deadline has yet been announced. Additionally, some insurance carriers, TPAs and other plan service providers have issued their own different rules and requirements about the information that they are willing to provide and assist with, and in light of that, it's important to speak with your plans' trusted advisors about this year's reporting. Your Corporate Synergies Account Manager is prepared to assist your organization through this process. ■

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