

LEGAL UPDATE

Agencies Issue No Surprises Act and Transparency Rule FAQs

On Aug. 20, 2021, the Departments of Labor (DOL), Health and Human Services (HHS) and the Treasury (Departments) issued frequently asked questions (FAQs) regarding the implementation of the No Surprises Act and transparency provisions of the Consolidated Appropriations Act, 2021 (CAA).

Deferred Enforcement of Some Requirements

The Departments will defer enforcement of the rules regarding:

- Publishing transparency in coverage machine-readable files related to prescription drug pricing (pending further rulemaking);
- Publishing other types of machine-readable files (until July 1, 2022);
- Providing a price comparison tool (until Jan. 1, 2023);
- Providing a good faith estimate of expected charges and Advanced Explanation of Benefits to certain individuals (pending further rulemaking); and
- Reporting of pharmacy benefit and drug costs (pending further rulemaking).

Other Guidance

The Departments plan to issue regulations on the interaction of the CAA and the transparency in coverage final rules as well as the provider directory and continuity of care requirements. Regulations may not be issued until after Jan. 1, 2022. Until then, plans and issuers are expected to use good faith, reasonable interpretations of the statute.

They do not expect to issue regulations on provisions prohibiting gag clauses or balance billing disclosure requirements. Plans and issuers are expected to use good faith, reasonable interpretations of the statutory requirements.

The Departments also provided an example of a plan or insurance identification card that would be compliant with the transparency requirements for those cards and clarified that grandfathered health plans are generally subject to the CAA's requirements.

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Important Dates

Dec. 27, 2020

The CAA was signed into law.

Aug. 20, 2021

The Departments issued 12 FAQs regarding implementation of certain CAA provisions.

Jan. 1, 2022

Several CAA provisions are scheduled to take effect.

Due to the rapid implementation timeline, the Departments will defer enforcement of some provisions.



JP Griffin Group