

Reminder: Transparency in Health Coverage Machine Readable Files Must be Posted by July 1, 2022

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06.22.2022

The Transparency in Coverage Final Rules issued in 2020 require most non-grandfathered insurers and group health plan sponsors to make publicly available online three machine-readable data files with health care pricing information as of July 1, 2022. These files must include: (i) all in-network provider negotiated rates, (ii) historical out-of-network allowed amounts, and (iii) prescription drug pricing information. The enforcement of the prescription drug pricing disclosure was delayed pending further guidance but the deadline related to the in-network and out-of-network provider rate disclosure still applies.

For employers that sponsor fully-insured group health plans, the health insurance carrier likely will post the required information and can be liable for failing to do so. However, employers should ensure that their carriers expect to comply with the July 1 deadline and that their contracts with the carriers provide that this is a responsibility of the carrier.

For self-insured employers, the group health plan's third party administrator or ASO provider generally will post the required disclosure. However, a failure to do so will result in liability to the plan. Therefore, employer's should ensure that the posting obligation is addressed in the services agreement with the TPA, and attempt to indemnify the employer from any liability associated with failure to comply. If a third-party website hosts the files, the plan or issuer must post a link to the file's location on its own public website. However, most self-insured plans do not host a public website, plan administrators will need to consider alternatives for meeting

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this requirement such as creating a separate website or utilizing a “microsite” created by a third party administrator.

Please reach out to a Laner Muchin Employee Benefits attorney if you have any questions or would like assistance in reviewing your contracts in this regard.