TREXIN INSIGHT PAPER

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UPDATED COMPLIANCE DATES FOR THE CONSOLIDATED APPROPRIATIONS ACT, TRANSPARENCY IN COVERAGE, AND THE NO SURPRISES ACT

Here is what you need to know:

On August 20, 2021, the Departments of Labor ("DOL"), Health and Human Services ("HHS"), and the Department of the Treasury ("USDT") announced delays and clarifications to upcoming compliance dates under the No Surprises Act ("NSA") and the Transparency in Coverage Final Rule ("TIC") of the Consolidated Appropriations Act 2021 ("CAA"). These upcoming notice and disclosure responsibilities specifically affect health plans and insurers. Originally, there was conflicting information between documents on compliance dates, therefore the joint Departments agreed to extend these until they issue additional guidance. For your convenience, we have consolidated these changes which will have the greatest impact below:

CHANGES IN THE CONSOLIDATED APPROPRIATIONS ACT

- Reporting on Pharmacy Benefits and Drug Costs
  - The Departments deferred enforcement of reporting pharmacy benefits and drug costs to December 27, 2022 (previously December 27, 2021).

CHANGES IN TRANSPARENCY IN COVERAGE

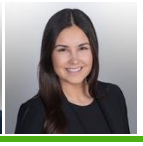
- Machine-Readable Files
  - Enforcement of the machine-readable files for in-network rates and out-of-network allowed amounts and billed charges has been delayed until July 1, 2022.
  - Enforcement of the machine-readable file related to prescription drug pricing has been deferred pending further rulemaking.
- Price Comparison Tool
  - Due to overlapping regulations, the Departments will look to add the requirement that price comparison information must also be provided over the telephone (TIC originally only required online tool and paper).

CHANGES IN THE NO SURPRISES ACT

- Advanced Explanation of Benefits
  - The Departments will defer enforcement of the requirement that plans and issuers must provide an Advanced Explanation of Benefits until further rulemaking since compliance by the original January 1, 2022 date is unlikely.
- Provider Directory
  - There has not been a change to the compliance related dates within the Provider Directory, but the Departments did clarify how they would enforce compliance based on a good faith interpretation. Please see their clarification below:

> *Pending any implementing rulemaking, the Departments will not deem a plan or issuer to be out of compliance with provider directory requirements as long as the plan or issuer imposes only a cost-sharing amount that is not greater than the cost-sharing amount that would be imposed for items and services furnished by a participating provider, and counts those cost-sharing amounts toward any deductible or out-of-pocket maximum, in a case when a participant, beneficiary, or enrollee receives items and services from a nonparticipating provider and the individual was provided inaccurate information by the plan or issuer under a provider directory or response protocol that stated that the provider or facility was a participating provider or participating facility.*[i]

While many of the original compliance dates have been delayed or even deferred until further rulemaking, the Departments have made it clear that enforcement of these provisions will come due. It is critical for healthcare companies to utilize this time and prioritize transforming operations and technology to comply. Trexin has deep experience in helping healthcare companies comply with federal regulations and can guide companies in innovative strategies to go beyond compliance, using these regulations as impetus to change. If you would like to learn more about our forecast for the healthcare industry in complying with these regulations and our innovative strategies to go beyond compliance, please reach out to a Trexin Advisor here or refer to our Healthcare Policy and Compliance Practice Area for more information.

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[i] https://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/FAQs-Part-49.pdf https://www.onedigital.com/blog/departments-delay-transparency-in-coverage-health-plan-notice-and-disclosure-requirements/