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COMPLIANCE ALERT

Transparency Rules- Machine Readable files (MRF)

Background

Under the “Transparency in Coverage” Final Rule (TiC), issued in 2020 by the U.S. Department of Health & Human Services, U.S. Department of Labor, and U.S. Department of the Treasury, effective 7/1/22, health plans (which include employers who sponsor employee benefit plans) and health insurance issuers must publicly post pricing data known as the “machine-readable files” or (“MRFs”). The point of the release of these cost data files has nothing to do with communication to employees or plan participants, but instead, in the name of health cost transparency, this rule requires insurance companies and self-insured plans to publicize what they pay providers for medical services and make that available to the public. One of the primary goals with this requirement is that the information can then be gathered broadly, and data analytics run to provide more transparency across the industry.

Fully insured plans may generally rely on the insurance carrier to handle this requirement on behalf of the plan. However, for employers offering self-insured plans, the employer may be required to post a link to such file on the employer’s public website.

Where Will TiC Machine-Readable Files and Links be Posted?

Carriers and TPAs have begun to issue communications outlining how they plan to meet these requirements. One of the requirements of particular interest to employers is that the data must be made available on a publicly available website. Carriers and TPAs have interpreted this requirement differently creating some confusion among employers. The TiC rules require the group health plan to post links to the machine-readable files containing the TiC pricing information on a publicly available website.

The machine-readable files must be accessible free of charge, without having to establish a user account, password, or other credentials, and without having to submit any personal identifying information such as a name or email address. Treas. Reg. §54.9815-2715A3(b)(2.).

Based on the information currently available, we are recommending that employers be prepared to do the following:

- **Fully Insured Plans:** Employers sponsoring fully insured medical plan options can rely on the insurance carrier to satisfy this requirement. The rules specifically say that if the employer has something in writing from the carrier indicating that the carrier is posting the information, then the employer does not need to take further action.
- **Self-Insured Plans:** Employers sponsoring self-insured medical plans should be prepared to post a link on their own company public-facing website to ensure the file is publicly available, rather than on an internal site or benefits portal where it is available solely to the employees or plan

participants. There is not any formal guidance on how or where exactly the link should be displayed on the website. The link does not need to be front and center, but we do not recommend intentionally making it hard to find either.

Along with the link, some carriers are recommending overview verbiage, for example:
This link leads to the machine-readable files that are made available in response to the federal Transparency in Coverage Rule and includes negotiated service rates and out-of-network allowed amounts between health plans and healthcare providers. The machine-readable files are formatted to allow researchers, regulators, and application developers to access and analyze data more easily.

NOTE: We are hopeful that there may be additional guidance coming from the agencies that would allow a TPA to satisfy the posting requirements on behalf of the health plans they administer, in which case employers offering self-insured coverage would not have to post anything on their company websites.

Maintenance and Availability Requirements for Machine-Readable Files

Creating, hosting, and linking to the machine-readable files is just one part of the overall requirements. The machine-readable files must be updated monthly (and clearly indicate the date the file was last updated), must be available in a form and manner specified in any guidance issued by the IRS, DOL, or CMS.

Next Steps:

The insurance carriers and third-party administrators are in the process of updating employers directly. Please contact your Oswald Service Representative with any questions as we have continued to track the most recent updates with all parties. Mark your calendars for the Compliance Webinar “Updates on Transparency, Surprise Billing, and Prescription/ Health Cost Reporting Requirements” on June 23rd at 3:00PM EST. Register [HERE](#)

Disclaimer: Materials are solely for informational purposes as an educational resource. Please contact counsel to obtain advice with respect to any specific issue.