

# No Surprises Act and Transparency: High-level Overview

## Surprise Billing



### EFFECTIVE DATES

Plan years beginning on or after 1/1/22



### General Overview:

#### No balance billing for:

- 1) Emergency services
- 2) OON care during INN facility visit, and
- 3) OON air ambulance services (if plan covers INN)

#### Other requirements:

- Requires application of INN cost-share and prescribes **cost-share calculations** (e.g., median/QPA)
- Establishes **Independent Dispute Resolution** process to resolve payment disputes
- Sets **30-day timeframe to pay/deny** directly to provider
- Expanded definition of **Emergency Services** and additional ER coverage requirements



### Rulemaking:

- **By 7/1/21:** QPA methodology and other issues
- **By 10/1/21:** QPA Audit Process
- **By 12/27/21:** IDR Process
- **By 1/1/22:** Process for complaints to agency
- **ER rulemaking:** No specific dates

## Transparency - Transparency in Coverage (TCA) and CAA



### EFFECTIVE DATES

**Price Comparison Tool:** Plan years beginning on or after 1/1/23

**Accuracy of Provider Directory:** Plan years beginning on or after 1/1/22

**Advanced EOBs:** Plan years beginning on or after 1/1/22



**ID Cards:** Plan years beginning on or after 1/1/22

### General Overview:

- TCR requires plans to provide **machine readable files** of INN/ONN **rates** and **personalized cost-sharing information** for covered services to members.
- CAA Transparency includes the following:
  - Advanced **EOBs**
  - **Price comparison tool**
  - Accuracy of **provider directories**
  - **ID cards** must include deductible, OOPM, consumer assistance information



### Rulemaking:

- **CAA Transparency:** Expected but no specific dates
- **TCR Transparency:** The final rule was issued in October 2020. FAQs were issued on 8/20/21, that include the deferral of the Machine-Readable File for the Rx Drug File.

## Other Provisions\*



### EFFECTIVE DATES

- **Continuity of Care:** Plan years beginning on or after 1/1/22
- **Gag Clauses:** 12/27/20
- **Broker and Consultant Compensation:** 12/27/21
- (doesn't apply to contracts issued before date of enactment)
- **Mental Health Parity (MHP) NQTL Comparison Reporting:** Feb. 10, 2021 (reports could be requested)
- **Pharmacy Benefit and Drug Cost Reporting:** Pharmacy Benefit and Drug Cost Reporting: plans to be prepared to provide reporting no later than 12/27/22



### General Overview:

- **Continuity of Care.** Cover services post-network termination for certain services, including change of plan
- **Gag clauses.** Bans gag clauses related to provider-specific cost and quality data
- **Broker and consultant compensation.** ERISA and individual market plans
- **MHP.** Additional NQTL comparison
- **Pharmacy Benefit and Drug Cost Reporting**



**Rulemaking:** Anticipated for all provisions. Specific rulemaking dates:

- **By 12/27/21:** Broker and consultant compensation
- **Within 18 months:** MHP – Guidance on complaint process

# Transparency Provisions Overlap in TCA and CAA

## Transparency in Coverage Final Rule

(Final Rule published October 2020)

## Consolidated Appropriations Act – Transparency Provisions

(Legislation passed December 2020 – Final rule still pending)



### Machine Readable Rate Files

The public, including, Third Parties, Consultants, Academics, Media, Providers



### Cost Comparison

Available to members pre-service through a secure online site or via phone.



### ID Cards

Members Receive



### Advanced EOB

Provider Initiates  
Members Receives pre-service



### Provider Data Verification

Provider Verify / Update data  
Members Receive

Who  
(Audience)

What

Publish 3 Machine Readable Files to the public

- In-network Rates
- Out-of-network Historic Allowable Amounts
- Rx Negotiated Rate and Historic Net Price (deferred, pending further rule making)

Individual & Group Plans

Provide in- and out-of-network Cost Sharing Estimates for covered items and services.

Individual & Group Plans

Include Deductible and OPX Max on ID Card.  
Include contact phone number and web address for benefit verification  
Individual & Group Plans

In certain instances, provide members with an AEOB before their appointment  
The AEOB includes an estimate of what the service will cost the member.  
Individual & Group Plans

Providers verify their directory data every 90 days  
Unverified data is removed from public site provider directories.  
Updated data must be reflected within 2 days.  
Provide members with confirmation of Provider Network Status

When

Publish for plan year 2022 starting on 7/1/22, or plan year renewal for plans that renew after 7/1/22.

Phase I of Cost-Sharing Estimator Tool for 500 Shoppable Procedures Plan Year 2023

Phase II of Cost-Sharing Estimator Tool Plan year 2024

2022 Plan Year Renewal

Deferred until further rulemaking.

Plan Year 2022