
Employer Group Health Plans and Insurers Face July 1 Date for Implementing Phase 1 of Transparency in Coverage Rules

May 2022

The federal government's years-long effort to foster transparency in employer group health plans begins in less than two months, with group health plans and health insurers facing a July 1, 2022, compliance date to publish certain price information in machine-readable files on a public website.

This Aon bulletin discusses:

- Background to the Transparency in Coverage Rules
- Phase 1—What Are Machine-Readable Files?
- Plans That Must Publish Machine-Readable Files Under Phase 1
- The Rules for Publishing Machine-Readable Files

Background to the Transparency in Coverage Rules

The transparency in coverage rules (the TiC rules) result from laws enacted and regulations issued over the past several years. Previously issued Aon bulletins on the TiC rules can be found at [this link](#) from November 2020 and at [this link](#) from August 2021.

The timeline for compliance with the TiC rules is as follows:

- **Phase 1—Publish Machine-Readable Files:** Non-grandfathered group health plans with plan years starting on or before July 1, 2022, must publish two machine-readable files on a public website by July 1, 2022. Plans with plan years beginning after July 1, 2022, must publish the files by the first day of the plan year. For example, a plan with an October 1–September 30 plan year must post the machine-readable files by October 1, 2022. Phase 1 is intended to make health care prices public, and the files are not meant to be participant-facing. Researchers and data analytics firms can create programs that find the machine-readable files, download them, and use the information in them to produce products and services for both health care payers and health care providers.
- **Phase 2—Submit Prescription Drug Data to the Departments:** Plans must submit detailed information on medical and prescription drug plans, including wellness and premium information, to the Departments of Labor, Treasury, and Health and Human Services (Departments) via the Centers for Medicare & Medicaid Services. The deadline for submission for the 2020 and 2021 “reference years” is December 27, 2022, and annually thereafter by June 1. (Deadlines are not based on plan years.) This reporting, also referred to as Prescription Drug Data Collection or Section 204 Data Submission, is a distinct compliance task from publishing the machine-readable files in Phase 1.

- **Phase 3—Publish Price Comparison Tool:** Non-grandfathered group health plans must make an online price comparison tool available to participants over a two-year period. Phased implementation begins in plan years starting in 2023 with respect to 500 items and services. Full implementation begins in plan years starting in 2024. Medical third-party administrators (TPAs) and insurers have indicated they will be providing this service for most clients.

Phase 1—What Are Machine-Readable Files?

Under the TiC rules, group health plans and insurers must publish the following machine-readable files:

- **In-Network Rate File:** This file contains the negotiated in-network rates for all services with all providers.
- **Allowed Amounts File:** This file contains historical payments to and billed charges from out-of-network providers.
- **Prescription Drug File:** This file contains in-network prices and historical net prices for prescription drugs. However, the Departments have postponed publication of the prescription drug file indefinitely. As a result, the prescription drug file is not part of Phase 1.

Most group health plans and insurers must publish the machine-readable files on a public website starting July 1, 2022. The machine-readable files must be updated monthly.

Plans That Must Publish Machine-Readable Files Under Phase 1

In general, all non-grandfathered group health plans must publish machine-readable files, including:

- Employers that sponsor fully insured plans;
- Employers with self-insured plans;
- Church plans; and
- Non-federal governmental plans.

An employer that sponsors a fully insured health plan may enter into a written agreement with the insurer to shift the responsibility and liability for compliance with the TiC rules to the insurer. Some employers, however, might not want to negotiate an agreement mid-year and instead might choose to address the issue for the 2023 year. In that event, the employer, as plan sponsor, must comply with the TiC rules by July 1, 2022.

An employer that offers a self-insured plan can enter into a written agreement with its medical TPA to require the TPA to produce and maintain the machine-readable files on behalf of the plan. However, even with such an agreement, the plan sponsor retains liability for compliance.

The following group health plans are exempt from Phase 1:

- Grandfathered group health plans;

- Account-based plans, such as health flexible spending accounts, health reimbursement arrangements, and health savings accounts;
- Excepted benefits, such as dental and vision plans; and
- Retiree-only medical plans (e.g., separate plan document and separate Internal Revenue Service Form 5500 from actives).

The Rules for Publishing Machine-Readable Files

The following rules apply for publishing machine-readable files:

- **No Logins or Credentials.** Group health plans and insurers must post the machine-readable files on a public website that does not require any login or credentials to access it. Health plan enrollment platforms, benefit platforms, and private portals do not meet the requirements for public access if they require logins or credentials.
- **Self-Insured Plans Need Links and a Public Website.** For a self-insured plan where the employer retains responsibility for compliance, most medical plan TPAs will create and host the machine-readable files on behalf of the employer and will provide links for the employer to post on its website. However, the employer is responsible for posting the link to download the machine-readable files on the plan's website to demonstrate the group health plan's compliance. If the TPA aggregates information in the Allowed Amount File for more than one plan, the employer must provide a link on its own public website to the location where the TPA publishes the aggregated information.

An employer that does not have a public website for the plan must create one or have one created for the plan. Health plan enrollment platforms, benefit platforms, and private portals do not meet the requirements for public access if they require logins or credentials. To date, most medical TPAs have not announced whether they will create a website for posting the machine-readable files for their self-insured clients.

- **Fully Insured Plans Can Use Written Agreements to Shift Responsibility to Insurers.** Fully insured plans that have entered into a written agreement with the insurer assigning responsibility to the insurer likely do not need to create a website or post links to the files. However, as discussed above, employers that choose not to enter into such an agreement must create a website and post links.

Resources

The published November 2020 final health plan price transparency rules are available [here](#).

A Fact Sheet (2020) is available [here](#).

A news release (2020) is available [here](#).

August 2021 Frequently Asked Questions (FAQS) About Affordable Care Act and Consolidated Appropriations Act, 2021 Implementation Part 49: Transparency in Coverage Machine-Readable Files are available [here](#).



April 2022 FAQs About Affordable Care Act Implementation Part 53: Transparency in Coverage
Machine-Readable Files are available [here](#).



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