Departments to Employers: We'll Take RxDC Filings on Faith

Holiday Cheer as Government Departments Issue Good Faith Compliance Guidance to Employers Just Days Before December 27 Filing Deadline

January 2023

Just hours before the start of a three-day federal weekend preceding a December 27, 2022, filing deadline, employers preparing to submit their first Prescription Drug Data Collection (RxDC) filings got an early holiday gift from the U.S. government.

The Departments of Treasury, Labor, and Health and Human Services (the Departments) announced on Friday, December 23, 2022, that they will not take enforcement action against any employer-sponsored group health plan or issuer that uses a good faith reasonable interpretation of the regulations and Instructions for RxDC submissions. The Departments' guidance provides a submission grace period and allows plans and issuers to submit for 2020 and 2021 through January 31, 2023.

The Departments issued Frequently Asked Questions (FAQs) providing guidance for the 2020 and 2021 submissions, including:

- **Multiple Submissions by Reporting Entity.** A challenge for most reporting entities was the requirement that they could submit just once for each reference year, even if the submission impacted many employer-sponsored plans. This allows reporting entities (e.g., medical third-party administrators (TPAs), insurers, pharmacy benefit managers (PBMs), or actuarial/consulting firms such as Aon) to create more than one submission without impacting clients/employers on an earlier submission. The multiple submissions will be considered valid and not duplicate submissions.

- **Submission by Multiple Reporting Entitles Allowed.** While addressed in previous FAQs, the Departments clarified that more than one reporting entity is permitted to submit the same data file type on behalf of the same group health plan, instead of working together to consolidate all of the plan's data into a single data file for each type of data.

- **Submission of Premium and Life Years in a Simplified Manner.** While plans were instructed to submit information using the Health Insurance and Oversight System (HIOS) RxDC module, the Centers for Medicare & Medicaid Services is allowing submission by email for the plan list (P2), premium and life-years data (D1), and narrative response without any other data, by email to RxDCsubmissions@cms.hhs.gov instead of using HIOS. Aon anticipates that this relief was provided because some employers discovered late in the process that medical TPAs did not have complete D1 data (e.g., if Rx was carved out to a PBM or perhaps stop-loss was used that data was not available and/or utilized by the medical TPA). As a result, the employer's filings are technically deficient. The FAQ highlights that the email submission could also include optional supplemental documents.

Note: Aon's RxDC solution submitted a Master P2 and a complete D1, so employers who utilized the Aon optional service have complete submissions.

- Additional technical detail for reporting entities on the aggregation rule and reporting on vaccinations and reporting amounts not applied to the deducible or out-of-pocket maximum are optional.

The Departments will continue to evaluate stakeholder compliance efforts to determine whether additional guidance is needed before future deadlines. The 2022 reference year RxDC submission is due on or before June 1, 2023.

Resources

The Departments' guidance can be found here.

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