


# Transparency In Coverage (“TiC”)

# Two Requirements



**1. Machine-  
Readable Files  
("MRFs")**



**2. Price  
Transparency and  
Comparison Tools**

# Posting Machine-Readable Files

Non-grandfathered group health plans and carriers must publish machine-readable files (“MRFs”)

Disclosure of the In-Network Rate File and Allowed Amount file due by:

- **July 1, 2022** – for plan years that began between Jan. 1, 2022 – July 1, 2022
- For other plan years, plan year start month

Files must be updated monthly

Posting prescription drug file delayed pending guidance

## In-Network Rate File

- Negotiated rates for all covered items and services between the plan or carrier and in-network providers

## Allowed Amount File

- Allowed amount paid to, and billed charges from, OON providers for all covered services within a 90-day period

## Prescription Drug File (*delayed*)

- Negotiated rates and historical net prices for covered prescription drugs

# Posting Machine-Readable Files (cont.)

- MRFs must be posted to an internet website that is accessible to the public free of charge
  - No user account, password or other credentials
  - Posting to an intranet page or specific portal is not sufficient
- A lot of confusion around the posting requirement – who is responsible?

## Fully Insured

- Carrier is responsible
- Employers can rely on the carrier to post this information if there is a written agreement between the plan and carrier
- If no written agreement – employers should post link to MRFs on the employer's public facing website

## Self-Funded

- Employers may contract with their TPA to create and publicly post the plan's MRFs – plan remains liable
- Best practice, if TPA posts the files on behalf of the plan, consider adding a link to the MRFs on the plans (or employer's) public facing website

# Price Transparency and Comparison Tools

- Applies to all group health plans (including grandfathered plans)
- Plans must provide covered members a disclosure of cost sharing information in advance of receiving care through an internet-based self-service tool, in paper form or by telephone
  - Provided in advance of medical treatment (not after)
  - Must be provided in “plain language” – manner calculated to be understood by the average participant
- Initial compliance with respect to 500 identified items and services beginning with the first plan year on or after January 1, 2023
  - Full compliance (all items and services) required beginning with the first plan year on or after January 1, 2024

# Content Requirement

Estimated cost sharing	Estimate of member's cost sharing at time request is made
Accumulated amounts	Accumulated amounts of the member's cost sharing already incurred
In-network negotiated rates	Amount the plan pays in-network provider for the items or service
OON allowed amounts	Maximum allowed amount that could be paid for the items or service out-of-network
Bundled payment arrangements (if applicable)	Cost-sharing for each item or service within the bundled arrangement
Coverage prerequisites	Any requirements (e.g., prior authorization, step-therapy) to satisfy before member receives item or service
Disclosure	Disclosure of certain key terms and other information – <a href="#">draft model notice</a> available

# Price Transparency and Comparison Tools (cont.)

Who is responsible?

## Fully Insured

- Carrier is responsible
- Employers can rely on the carrier to provide these tools if there is a written agreement between the plan and carrier

## Self-Funded

- Employers may contract with their TPA to provide these tools (most do) – plan remains liable

# Good Faith Compliance – Safe Harbor

- For both TiC requirements, rules provide for good faith compliance
- A plan or carrier will not fail to comply with these requirements when, acting in good faith and with reasonable diligence:
  - an error or omission in the required disclosure is made, provided the information is corrected as soon as practicable
  - the internet website hosting the MRF files is temporarily inaccessible, provided that the plan or carrier makes the information available as soon as practicable
- Further, when information must be obtained from a third party, the plan or carrier will not fail to comply with this requirement because it relied in good faith on the information provided by the third party, unless it is known (or reasonably should have known) the information is incomplete or inaccurate



# TiC Compliance Checklist

- Discuss these requirements with carriers and TPAs – employers generally will not have the information necessary to comply with these requirements without carrier/TPA assistance
- If fully insured, obtain written assurances from the carriers that they will comply with the TiC requirements on behalf of the plan for both MRF and price comparison tools
- Self-funded plans are responsible for compliance – coordinate with TPAs and other vendors to ensure these requirements are met
  - Any additional charges?
  - Update agreements
  - How to handle carved out arrangements
- For PYs beginning January 1, 2022 – July 1, 2022, make sure the MRFs are posted and publicly available on July 1, 2022
  - For other 2022 plan years, due date is in the month the plan year begins
  - Prepare to comply with price comparison tools (FPY on or after January 1, 2023)
  - Await further guidance and an implementation deadline with respect prescription drug MRFs