

Transparency Requirements in the Consolidated Appropriations Act

The Departments of Labor, Health and Human Services (HHS) and the Treasury released the Transparency in Coverage (TiC) [Final Rules](#) on November 12, 2020. The TiC Final Rules set forth requirements for all group health plans and health insurance issuers in the individual and group markets to disclose cost-sharing information upon request to a participant, beneficiary, or enrollee. Following publication of these final rules, the Consolidated Appropriations Act of 2021 (CAA) was signed into law on December 27, 2020. The CAA requirements are largely duplicative of several components of the TiC Final Rules. HHS has stated that until regulations are published, whether they be in the form of a proposed rule or interim final rule, plans are to make every good faith effort to comply with the requirements in the TiC regulations.

The TiC Final Rules created a comprehensive set of requirements for plan and issuer disclosure of estimated cost-sharing information through an online tool, and in paper form, upon request. These requirements for the disclosure of cost-sharing information would allow a participant, to request cost-sharing information for a discrete covered item or service by billing code or descriptive term, according to the participant's request.

Further, the TiC Final Rules require a plan sponsor to provide cost-sharing information for a covered item or service in connection with an in-network provider or providers, or an out-of-network allowed amount for a covered item or service provided by an out-of-network provider, according to the participant's request, permitting the individual to specify the information necessary for the plan sponsor to provide meaningful cost-sharing information.

The regulations and statutes both apply to all non-grandfathered group and individual market plans. **This includes all self-insured and fully-insured employer plans.** The requirements do not apply to health reimbursement arrangements or other account-based group health plans, nor do they apply to short-term limited duration plans as defined in the Internal Revenue Code.

The TiC final rule requires compliance by January 1, 2022; however, HHS exercised its enforcement discretion and has now indicated that these provisions will be enforced beginning July 1, 2022.

The requirements of the TiC rule will be phased in in three stages:

In the first phase, health plans are required to disclose hospital pricing information. The first phase consists of posting on a public website two machine-readable files:

- one containing rates for all covered items and services between the plan or issuer and all in-network providers
- One containing all allowed amounts for, and billed charges from, out-of-network providers.

These requirements apply to plan years beginning on or after January 1, 2022, and **will now be enforced beginning July 1, 2022.**

The second phase, currently slated to go into effect in 2023, consists of an internet-based comparison tool allowing patients to receive estimates of their cost-sharing responsibilities for 500 shoppable items or services from a specific provider(s).

The third phase, to go into effect in 2024, is to expand the internet-based tool to all items and services. All information must be provided, upon request, in paper form and requests by phone must be accommodated. The Department of Labor has published a set of [FAQs](#) on the TiC and CAA coverage transparency requirements.