

Fees and Add-on Charges Hidden in Your Claims

- In light of the recent lawsuit, Department of Labor (DOL) vs. BCBS Minnesota (BCBSM), we are requesting clarification regarding the manner in which certain claims may be being billed to plan.
- Specifically, we would like to confirm whether any Florida Medicaid taxes or other provider taxes are being added to claims by [insert name of TPA], which may be permitted in your existing provider contracts that may include provisions for adding Florida Medicaid provider taxes to the claims.
- Please confirm whether such taxes are being added to claims and if so, confirm whether provider contracts form the basis upon which these taxes are being added to claims. Please provide a detailed description of the calculation methodologies used for integrating these taxes into our claims. This information is essential for ensuring our compliance with regulatory standards and maintaining fiscal transparency.

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Hidden and Potentially Egregious Recovery Services or OON Vendor Fees

- Are we currently engaging any recovery services vendors? If so, could you provide the organization(s)' names and any information that may be helpful in understanding their processes?
- What is the current fee structure for the "savings" realized through these services? Is it a percentage-based, flat rate, or a hybrid model? If percentage based, what is the current percentage?
- In instances where a third-party vendor is involved, how is the savings fee distributed between [TPA], our plan and the vendor? What percentage of the fee is retained by [insert name of TPA]?
- Could you provide a comprehensive analysis of the savings generated through these vendors over the past fiscal year?
 - For example, what methodology and criteria are used to calculate these savings?
 - What benchmarks or performance indicators are utilized to assess vendor effectiveness?
 - Is vendor and/or [TPA] able to receive savings fees that are in excess of the ultimate negotiated rate paid to the provider? If so, please provide a complete list of all instances where this has occurred over the last 18 months.

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Script for Employer Data Request

1. Initial Request for Claims Data

Employer:

As the fiduciary of [Plan Name], we are requesting access to all claims data as outlined in the Consolidated Appropriations Act (CAA) 2021, Section 201. Specifically, we are requesting access to all fields as described in the law, including:

- Data on the total cost of claims, broken down by the type of service and provider.
- Claim-level data on all paid, denied, and pending claims, including dates of service, billed amounts, allowed amounts, and payments made to providers.
- Participant and beneficiary data, including eligibility status and the relationship to the policyholder.

This data is necessary for us to fulfill our fiduciary obligations and to ensure the plan's compliance with applicable laws and regulations. Please provide this data in its entirety at your earliest convenience.

Anticipated TPA Response

TPA: *We have received your request; however, we cannot provide all of the fields you've requested. Some of this information constitutes confidential and proprietary trade information, which we are unable to share.*

2. Employer Response to TPA

Employer: Thank you for your response. I would like to reiterate that under the Consolidated Appropriations Act (CAA) 2021, Section 201, and generally as an ERISA plan fiduciary, we are entitled to access all claims data without exception. The law clearly states that fiduciaries are entitled to receive all necessary information to discharge their obligations.

As the plan fiduciary, it is imperative that we have complete access to the requested data to fulfill our legal obligations. Confidential or proprietary concerns do not override

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our rights and obligations under federal law. Please provide the complete claims data as requested.

Anticipated TPA Response - HIPAA Concern

TPA:We understand your position; however, providing the full scope of the data you are requesting could potentially violate HIPAA regulations, which protect patient privacy.

3. Employer Response to HIPAA Concern

Employer: While we understand the importance of HIPAA, it is important to note that HIPAA requires that data be maintained in a standardized format to ensure it is accessible to plan fiduciaries and administrators. As such, providing the requested claims data does not constitute a violation of HIPAA. In fact, it is consistent with HIPAA's requirements for safeguarding and providing access to data.

We would prefer that you provide this data in the standardized format you already use in your claims processing system, notably the X12 format.

Anticipated TPA Response - System Format Issue

TPA: *Thank you for your patience. Unfortunately, we do not use the X12 format you mentioned. Our systems are not configured to export data in that format. We apologize for any inconvenience this may cause.*

4. Employer Response to Format Issue

Employer:We appreciate your response, but it is critical to note that the X12 format is the standardized format required to access clearinghouses and other data processors and is mandated under HIPAA as the adopted standard format. Please check with your claims processing teams to confirm your capabilities.

This data must be provided in a standardized format to ensure compliance with both HIPAA and our fiduciary obligations under the CAA. Please confirm when we can expect to receive the data.

Anticipated TPA Response - NDA Requirement

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TPA: *In order to release this information, we would require you to sign a Non-Disclosure Agreement (NDA) and provide a detailed justification as to why you need the data.*

5. Employer Final Response

Employer: While we respect your procedures, as the plan fiduciary, we cannot agree to any restrictions on our access to plan data, including signing an NDA. The CAA mandates that we have full access to this information without such limitations.

The justification for access to this data is already established under our fiduciary duties. Specifically, we require the data for plan analysis and compliance purposes. We are not required to provide any further justification beyond our legal obligations as plan fiduciaries.

Please proceed with providing the requested data as per our legal rights.