



Transparency and Consolidated Appropriations Act Update

May 2022



Executive Summary

Interoperability Final Rule

Released March 9, 2020

Primary requirements:

- **Patient Access APIs** allows members to share claim/clinical information with third-party apps (effective 1/1/21*)
- **Provider / Pharmacy Directory APIs** makes provider demographics publicly available for third-party apps (effective 1/1/21*)
- **Payer-to-Payer Data Exchange** allows consumers to share clinical data with other payers when changing plans (effective 1/1/22)

Impacts Medicare, Medicaid and IVL

Transparency in Coverage Final Rule

Released October 29, 2020

Primary requirements:

- **Machine-readable files** to publicly disclose for all covered items: In-network Rates and Out-of-network allowed amounts (effective 7/1/22)
- **Cost-Sharing tool** (online and paper-based process) with accurate, real-time cost information with member accumulators. Effective 1/1/23 for 500 items/services; 1/1/24 for all remaining covered item/services

Impacts Commercial, IVL, Student Health Meritain and self-funded plan sponsors

Consolidated Appropriations Act

No Surprises Act

Released December 27, 2020

Legislation includes:

- **Consumer protections** from surprise billing and out of network emergency cost
- **Cost transparency** requirements, including cost comparison tools and an Advance EOB
- Provider **directory verification** process
- **Changes to member ID** cards to add deductibles and out-of-pocket limits
- Pharmacy cost **reporting**
- **Regulations pending** and most provisions are **effective 1/1/22**

Impacts PBM, Commercial, IVL, Meritain and self-funded plan sponsors

*On 4/21/20, CMS announced it will **exercise enforcement discretion for a period of six months** for the Patient Access and Provider Directory interfaces as a result of COVID-19; CMS will not enforce the new requirements until 7/1/21

Transparency in Coverage

- On October 29, 2020, the Transparency in Coverage final rule was released requiring health plans and issuers to publicly disclose pricing information via machine-readable file (MRF) by January 1, 2022.
- On August 20, 2021, the Federal Departments of Labor, Health and Human Services, and Treasury announced their intention to extend the effective date for certain portions of the Transparency in Coverage final rules which are outlined below.

	Key Dates	Aetna Approach	Plan Sponsor Actions
In-Network MRF	Deferred enforcement until July 1, 2022.	Aetna will continue to implement our strategy to meet the deferred enforcement dates.	Fully insured: no action needed; Aetna will post the required data. Self-funded plan sponsors with fewer than 100 lives: no action needed; Aetna will post the required data.
Allowed Amount MRF	Deferred enforcement until July 1, 2022.	Aetna will continue to implement our strategy to meet the deferred enforcement dates.	All other self-funded: Aetna will provide URL (link) to the required data which plan sponsors can post to their public website.
Prescription drug MRF	As of August 20, 2021, deferred indefinitely pending further rulemaking	Aetna is awaiting additional regulatory guidance	No action needed at this time.
Cost Estimator Tool	Effective date is based on phased approach: <ul style="list-style-type: none"> January 1, 2023: 500 “shoppable” covered items and services identified in rules January 1, 2024: All remaining covered item and services 	Aetna is currently building the Cost Estimator Tool to be available on Phase 1 January 1, 2023, and Phase 2 for January 1, 2024.	No action needed at this time.

Consolidated Appropriations Act / No Surprises Act

- On December 27, 2020, the Consolidated Appropriations Act (CAA) was released and includes, among other things, new transparency requirements and consumer protections from surprise billing and new drug cost reporting.
- On August 20, 2021, the Federal Departments of Labor, Health and Human Services, and Treasury announced their intention to extend the effective date for certain portions of the CAA.

	Key Dates	Aetna Approach	Plan Sponsor Actions
Removal of Gag Clauses	Effective December 27, 2020.	Aetna contracts are compliant.	No action needed with respect to your Aetna relationship. Plan sponsors should evaluate their other vendor relationships for compliance with this requirement. Regulatory guidance is pending for plan sponsors to attest to compliance.
MHPAEA NQTL Analysis Documentation	Effective February 10, 2021.	Aetna maintains a NQTL comparability analysis document that we use to respond to regulators regarding our fully insured plans. Aetna can provide this analysis to self-funded customers upon request.	Self-funded customers are responsible for determining plan compliance with MHPAEA. As a result, they are responsible for completing NQTL testing, and member cost share is an element of plan design exclusively controlled by a self-funded plan.
Surprise Billing	Effective for plan years beginning on or after January 1, 2022.	Aetna will apply these consumer protections for fully-insured plan sponsors on or after January 1, 2022, and upon renewal for self-funded plan sponsors. To cover administration costs, self-insured plan sponsors will be charged a \$50 per NSA-eligible claim beginning June 2022.	The \$50 per NSA eligible claim will begin in June 2022 via claim wire. Financial modeling is available upon request for self-funded plan sponsors to assess impact.
Independent Dispute Resolution (IDR) Process	Effective for plan years beginning on or after January 1, 2022.	Aetna has established a process for IDR and will be passing through the net related fees to self-insured plan sponsors. Fees include: <ul style="list-style-type: none"> • \$50 to start the IDR process • A range of \$200 - \$500 for the arbitrator (prevailing party will be refunded). 	IDR fees will be passed through via wire on a monthly basis only for NSA claims that go through the IDR process.

Consolidated Appropriations Act / No Surprises Act

	Key Dates	Aetna Approach	Plan Sponsor Actions
Medical ID Cards	Effective January 1, 2022, using a good faith, reasonable interpretation of the law.	Member ID cards currently contain a 1-800 number and website reference where members may find cost sharing information. ID cards were updated at the end of Q1 2022 with the medical deductible / out-of-pocket maximum; digital cards will be reissued in May 2022.	No action needed.
Continuity of Care	Effective January 1, 2022, using a good faith, reasonable interpretation of the law.	Aetna has a continuity of care process in place that ensures the member's claims will continue to be paid at the in-network level when the member requests continuity of care.	No action needed.
Provider Directories	Effective January 1, 2022, using a good faith, reasonable interpretation of the law.	Aetna has instituted measures to validate the accuracy of provider directory information and will hold members harmless if they rely upon inaccurate provider directory information.	At this time, no action required.
Balance Billing Disclosure	Effective January 1, 2022, using a good faith, reasonable interpretation of the law.	Aetna posted the disclosure notice to aetna.com and updated member EOBs to include HHS contact information. Disclosure notice	Self-funded plan sponsors should also post the disclosure on their public website.

Consolidated Appropriations Act / No Surprises Act

	Key Dates	Aetna Approach	Plan Sponsor Actions
Reporting on Pharmacy Benefits and Drug Costs	Deferred enforcement until December 27, 2022 to submit initial report to the Tri-Agencies and annually thereafter by June 1.	Aetna is developing a process to submit the reports by the effective date.	At this time, no action required.
Producer Comp Disclosures	Effective December 27, 2021.	Aetna has no disclosure requirements for Group business.	No action needed with respect to your Aetna relationship.
Price Comparison Tool	Delayed until 2023, to align with the Transparency in Coverage cost estimator tool requirements.	Aetna is currently building the Cost Estimator Tool to be available on Phase 1 January 1, 2023, and Phase 2 for January 1, 2024.	No action needed.
Air Ambulance Report Requirements	Data submission by March 31, 2023, for calendar year 2022.	Aetna is reviewing the requirements.	At this time, no action required.
Advance EOB	Delayed pending further rulemaking.	We are awaiting further rulemaking.	At this time, no action required.