ACUMEN SOLUTIONS GROUP

Your Bridge to Benefits Solutions
acumenins.com

# New Drug Cost Transparency Requirements

On November 17, 2021, the Departments of Health and Human Services (HHS), Labor (DOL) and the Treasury (collectively, the departments), along with the Office of Personnel Management (OPM), released an interim final rule, "Prescription Drug and Health Care Spending."

The rule, which includes a request for comment, is the latest in a series of regulations implementing provisions of the No Surprises Act and Consolidated Appropriations Act. Insurers providing employer-sponsored coverage, other group plans and individual plans must submit key data on drug costs to the departments. The same information will be submitted by Federal Employees Health Benefits (FEHB) Program carriers in coordination with OPM.

The purpose of this information is to enhance transparency on how prescription drugs contribute to the growth of health care spending and the cost of coverage.

This rule requires plans and issuers in the group and individual markets to submit the following information:

- General information regarding the plan or coverage
- Enrollment and premium data, including average monthly premiums paid by employees versus employers
- Total health care spending, broken down by type of cost (hospital care, primary care, specialty care, prescription drugs and other medical costs, including wellness services)

- Prescription drug spending by enrollees versus employers and issuers
- The 50 most frequently dispensed brand-name prescription drugs
- The 50 costliest prescription drugs by total annual spending
- The 50 prescription drugs with the greatest increase in plan or coverage expenditures from the previous year
- Prescription drug rebates, fees and other remuneration paid by drug manufacturers to the plan or issuer in each therapeutic class of drugs, as well as for each of the 25 drugs that yielded the highest amount of rebates
- The impact of prescription drug rebates, fees and other remuneration on premiums and out-of-pocket costs

Plan sponsors, issuers and FEHB carriers will generally be permitted to submit this data aggregated at the state or market level, rather than separately for each plan.

To ensure that the departments and OPM are able to conduct meaningful data analysis and clearly identify prescription drug trends, the rule provides uniform standards and definitions for identifying prescription drugs, regardless of the dosage strength, package size or mode of delivery. The departments will begin issuing biennial public reports on prescription drug pricing trends and the impact of prescription drug costs on premiums and out-of-pocket costs in 2023.

Plans and issuers must begin submitting the required information to the departments by December 27, 2021. Thereafter, the data is due by June 1 of each year.

However, the departments have stated that they will exercise discretion in deferring enforcement. Specifically, enforcement action will not be taken against plans or issuers that submit the required information for 2020 and 2021 by December 27, 2022. OPM also will allow its FEHB carriers to report information for 2020 and 2021 by December 27, 2022.

Comments on the rule are due by January 24, 2022.

**Pano Constantine**

(516) 473-0801
pconstantine@acumenins.com

**Acumen Solutions Group**
600 Broadhollow Road, Suite 200
Melville, NY 11747