
Say What? Departments Say Plans Need to Post Machine-Readable Files for Drug Prices, but Don't Say When

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On Thursday, September 28th, 2023, the Internal Revenue Service and the Departments of Labor and Health and Human Services (Departments) revoked prior guidance that delayed the requirement for health plan issuers and group health plans to post on public websites machine-readable files (MRFs) with price information on prescription drugs. What the Departments did not do, however, was announce a date by which issuers and plans had to post the MRFs.

In Affordable Care Act (ACA) Frequently Asked Questions (FAQs) Part 61, the Departments announced that they intend to provide further technical guidance on MRFs, along with an implementation timeline, at some point in the future. As a result, employers and plan sponsors will have to wait for the Departments to issue further guidance on posting.

The new FAQs also rolled back an enforcement safe harbor with respect to the in-network MRF in situations where it would be extremely difficult or impossible for a plan to determine and report an applicable rate for items or services provided under “percentage-of-billed-charges” contracts if an exact dollar amount cannot be determined for the item or service, prospectively. Instead, the Departments will review these situations on a case-by-case basis instead of a categorical safe harbor. While third-party administrators (TPAs) and insurers generally have taken primary responsibility for producing MRFs that satisfy technical requirements, employers should continue to monitor their TPAs for compliance with this slightly stricter regulatory approach.

Resources

ACA FAQs Part 61 can be found [here](#).



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