

Agencies Issue No Surprises Act and Transparency Rule FAQs

On Aug. 20, 2021, the Departments of Labor (DOL), Health and Human Services (HHS) and the Treasury (Departments) issued frequently asked questions (FAQs) regarding the implementation of the No Surprises Act and transparency provisions of the Consolidated Appropriations Act, 2021 (CAA).

The FAQs provide that Departments will defer enforcement of the rules regarding:

- Publishing transparency in coverage *machine-readable files related to* prescription drug pricing (pending further rulemaking);
- Publishing other types of machine-readable files (until July 1, 2022);
- Providing a price comparison tool (until Jan. 1, 2023);
- Providing a good faith estimate of expected charges and Advanced

- Explanation of Benefits to certain individuals (pending further rulemaking); and
- Reporting of pharmacy benefit and drug costs (pending further rulemaking).

The Departments plan to issue regulations on several other issues, including the interaction of the CAA and the transparency in coverage final rules, as well as the provider directory and continuity of care requirements. Regulations may not be issued until after Jan. 1, 2022. Until then, plans and issuers should use good faith, reasonable interpretations of the statute.

They do not expect to issue regulations on provisions prohibiting gag clauses or balance billing disclosure requirements. Plans and issuers are expected to use good faith, reasonable interpretations of the statutory requirements.

Proposed Rule Would Expand Electronic Filing

On July 23, 2021, the IRS published a [proposed rule](#) that would expand the requirement to file certain information returns electronically, including those under the Affordable Care Act's (ACA) reporting requirements in Internal Revenue Code Section 6055 and Section 6056.

- For Form 1094 series, Forms 1095-B and 1095-C, Form 1099 series and Form 5498 series, electronic filing would be required for entities that file **100 or more returns** for due dates in 2022, and **10 or more returns** after that. The proposal would also require aggregation of most information returns when calculating these thresholds.
- Entities that file at least **10 returns of any type** would be required to

electronically file Form 5330 for tax years ending on or after the date final rules are published, and Form 8955-SSA for plan years beginning on or after Jan. 1, 2022.

- For entities required to file Form 5500, the proposed rule would require entities that file at least **10 returns of any type** to file Form 5500 electronically for plan years beginning after Dec. 31, 2021.

This proposal would effectively eliminate paper filings for most employers. However, the proposed rule has not been finalized and is not effective at this time.