

# Benefits BRIEF



## Price Comparison Tools Due January 1, 2023 for Calendar Year Plans

January 4, 2023

Under the Consolidated Appropriations Act of 2021 (CAA) and the Transparency in Coverage regulations (TiC Final Rules), group health plans and insurers are required to make price comparison information available to participants, beneficiaries and enrollees through three different methods: **(1)** an internet-based, self-service tool, **(2)** paper form (upon request), or **(3)** telephone (upon request). For calendar year plans, the effective date for the price comparison tool's availability to participants is January 1, 2023.

### Background

Both the CAA and the TiC Final Rules include a variety of measures focused on improving transparency and strengthening consumer protection with respect to health insurance coverage. The price comparison tool will allow individuals to search for real-time cost-sharing information for covered items and services furnished by different providers, thus increasing the individual's understanding of their expenses and allowing them to effectively shop for items and services.

The price comparison tool requirement applies to group health plans and health insurance issuers offering group or individual health coverage. **Sponsors of group health plans - of all sizes and funding types - are subject to this new disclosure requirement.**

Importantly, though, the requirement does not apply to grandfathered health plans, retiree-only plans, excepted benefits such as dental and vision coverage, short-term limited-duration insurance (STLDI), Health FSAs, or HRAs.

Finally, it's important to note that the TiC Final Rules and the CAA, separately, include a price comparison tool requirement within each law. While the requirements for the price comparison tool under the CAA and the TiC Final Rules are not identical, they are largely duplicative. The Departments of Labor, Health and Human Services and the Treasury (Departments) have stated that they intend to issue further guidance confirming whether

compliance with the TiC requirements will also satisfy the CAA's price comparison requirements.

## Deadlines

For plan years beginning on or after January 1, 2023, the price comparison tool must be made available by group health plans and insurers for an initial, specified list of 500 shoppable items and services (listed in [Table 1 of the TiC Final Rules](#) and on the [CMS website](#)). Accordingly, **calendar year plans are required to make the self-service tool available by January 1, 2023.**

For plan years beginning on or after January 1, 2024, group health plans and insurers must expand the price comparison tool to cover all the remaining shoppable items and services.

## Special Rule to Avoid Unnecessary Duplication

The regulations include a special rule to avoid unnecessary duplication and streamline the provision of the required price comparison tool disclosure. Employers with **fully insured plans** may enter into a written agreement with the carrier whereby the carrier will agree to fulfill this compliance requirement. If the carrier fails to provide the price comparison tool per the written agreement, then the carrier will be in violation of the compliance requirement, not the plan.

Similarly, employers with **self-insured plans** may enter into an agreement with a third party, like a TPA or PBM, to assist in fulfilling the price comparison tool requirement. However, unlike employer-sponsors of fully insured plans, the employer-sponsor of the self-insured plan can still be held responsible for violating this transparency requirement if the third party fails to provide the price comparison tool.

## Penalties

CMS has the authority to enforce applicable transparency requirements. For plans and issuers that do not comply, CMS can take several enforcement actions, including requiring corrective actions and/or imposing a civil money penalty of **up to \$100 per day**, adjusted annually, for each violation and for each individual affected by the violation.

## Employer Next Steps

- Employer-sponsors with a **fully insured plan** should reach out to their carrier to confirm that they will be fulfilling the compliance requirement by the required deadline. The carrier's confirmation should be reflected in some form of a written agreement.

- Employer-sponsors with a **self-insured plan** should similarly reach out to the TPA to confirm the extent to which the TPA will assist with the price comparison tool. Since the liability for completion remains with employer-sponsor of a self-insured plan, employers should continue to monitor the third party to ensure they are providing the required price comparison tool disclosure.
- Plan sponsors should also confirm with their carrier or TPA how the availability of the tool will be communicated to plan participants.

## ADDITIONAL RESOURCES

[FAQs About Affordable Care Act and Consolidated Appropriations Act, 2021 Implementation Part 49](#)

[Transparency in Coverage Final Rules](#)

[Consolidated Appropriations Act, 2021](#)