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Mercer comments on proposed transparency in coverage rules

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A recent Mercer [comment letter](#) suggests ways to improve the [proposed transparency in coverage rules](#), issued last fall by the departments of Treasury, Labor, and Health and Human Services. Price transparency is a critical component of improving healthcare quality, affordability and accessibility for US workers and their families.

Proposal promotes upfront transparency to encourage cost savings

The proposed transparency rules would require most employer-sponsored group health plans and health insurance issuers to disclose price and cost-sharing information to participants before they receive healthcare items and services. The disclosure would give estimates of any out-of-pocket costs participants must pay, while making price information accessible in a standardized format. In particular, nongrandfathered group health plans would have to:

- **Provide a self-service transparency tool.** This tool would disclose personalized out-of-pocket cost information for all covered healthcare items and services via an internet-based self-service tool, with paper format available on request. This would allow most participants to get estimates of their cost-sharing liability for all in- and out-of-network healthcare providers.
- **Make machine-readable files publicly available.** Standardized, machine-readable files would contain the plan's negotiated rates for in-network providers and the allowed amounts previously paid to out-of-network providers. Plans would have to regularly update the files.

To encourage consumers to shop for better prices, the rule would offer relief from minimum loss ratio (MLR) rebates if plans share cost savings with enrollees who choose less-expensive providers.

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Mercer offers input on improvements

In Mercer's view, transparency rules are necessary to address wide price variations, reduce waste in the healthcare system and help individuals make informed choices about their healthcare spending. Properly structured transparency rules will give participants a better upfront understanding of how much they will have to pay out-of-pocket for many healthcare services.

Mercer suggests the agencies improve the transparency rules in several ways:

- Limit the required self-service transparency tool to "shoppable services" and include quality metrics, not just cost information.
- Reevaluate the set of services specified in the transparency rule after three years to ensure that transparency is working as intended.
- Reduce the compliance burden by expanding the special rule for insured plans to provide penalty relief for employers and sponsors with self-funded group health plans if they cannot get the required data to satisfy their obligations under the transparency rules.

Mercer also emphasizes that insurers and plan sponsors need adequate time to implement the transparency requirements. The proposed rules currently would apply on the first day of the first plan year starting only one year after the regulations are finalized. Mercer instead recommends extending that compliance deadline to the first day of the first plan year starting two years after final rules are published.

Related resources

Non-Mercer resources

- [Proposed rule: Transparency in coverage](#) (Federal Register, Nov. 27, 2019)
- [Fact sheet: Transparency in coverage proposed rule](#) (CMS, Nov. 15, 2019)

Mercer Law & Policy resources

- [Executive order targets healthcare price and quality transparency, and HSA/FSA changes](#) (July 10, 2019)
- [Top 10 compliance issues for 2020 health and fringe benefit planning](#) (June 25, 2019)
- [Mercer shares views with senators on controlling healthcare costs](#) (March 6, 2019)
- [2019 legislative and regulatory outlook for employer-sponsored health benefits](#) (Feb. 6, 2019)

Mercer comments on proposed transparency in coverage rules

Other Mercer resources

- [Comment letter on proposed transparency in coverage regulations](#) (Mercer, Jan. 29, 2020)
- [The new transparency regulations: Will consumers finally be able to shop for healthcare?](#) (Nov. 21, 2019)
- [Executive order on transparency, HSAs: What employers need to know](#) (June 27, 2019)

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