

# Departments Solicit Comments regarding Consolidated Appropriations Act of 2021 Prescription Drug Reporting Requirements

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June 30, 2021

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Under the Consolidated Appropriations Act of 2021 (the "**CAA**"), employer-sponsored group health plans will be required to submit to the DOL and/or Treasury Department a new annual report containing information pertaining to plan participation and prescription drug coverage provided under the plan during the previous plan year (the "**Rx Report**"). Among other items, the Rx Report must include information regarding (i) claims paid under the plan for the 50 most frequently dispensed brand prescription drugs ("**Claims Paid Items**"), (ii) annual spending for the 50 most costly prescription drugs ("**Spending Items**"), and (iii) rebates, fees, and other remuneration paid by drug manufacturers to the plan, its administrators, or service providers ("**Rebate Items**").

The first Rx Report is due by December 27, 2021, and each subsequent Rx Report is due by each June 1.

Recently, the DOL, Treasury Department, and HHS (the "**Agencies**") jointly issued a request for information (the "**RFI**") seeking public input regarding the Rx Report's implementation considerations and impact on group health plans. The RFI indicates that the input gathered will inform the Agencies' issuance of regulations and establishment of procedures. Questions presented in the RFI for which feedback is requested include the following:

- Should the Agencies expect that self-insured and partially-insured group health plans will contract with third party administrators or other service providers to submit the required data on their behalf?
- What considerations should the Agencies take into account in defining rebates, fees, and any other remuneration, and how should manufacturer copay assistance programs, coupon cards, and copay accumulator programs be treated for that purpose?
- Are there special considerations for certain types or sizes of group health plans, such as account-based plans, that make it infeasible for these plans to satisfy the Rx Report requirements?
- What benefit would there be to plan service providers having the ability to submit the Rx Report for multiple group health plans on an aggregated basis versus separately for each plan?

Other questions set out in the RFI relate to measuring the Rebate Items and their impact on premiums and out-of-pocket costs under the plan, as well as determining the Claims Paid Items, Spending Items, and other items of information to be included in the Rx Report.

The deadline for public comments in response to the RFI is 5:00 p.m. on July 23, 2021.

The RFI is available [here](#).