

New FAQs Address Transparency in Coverage Disclosures on Health Plan Websites

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The Transparency in Coverage Final Rules require an employer-sponsored group health plan to post three machine-readable files on a public website. Two of these files, the network rate and non-network allowed amount files, were required to be posted by July 1, 2022. Recently issued FAQs provide that a plan may satisfy this requirement by entering into a written agreement under which a service provider (such as a TPA) posts the machine-readable files on its public website on behalf of the plan. However, in the case of the non-network aggregated allowed amount files (*i.e.*, the third machine-readable file that must be published), the plan must post a link to the file hosted by the service provider on the plan's own website, if the plan maintains a public website. It is not clear from this FAQ whether the TPA must post this information on its public website where information is normally made available to participants. A separate FAQ requires the balance billing protections notice to be posted on the TPA's public website where information is normally made available to participants, if posting on the plan's behalf.

We understand that some TPAs are hosting the files at employer-specific links, which is not the general TPA-hosted website for the plan. Employers should consider whether the files will be posted on the main benefits portal for the plan and, if not, whether the employer should post the TPA-hosted employer-specific link on the employer's website. Employers should also note that the FAQs state that a plan will be liable for a service provider's failure to post the machine-readable files in accordance with these requirements, and thus employers are advised to address this risk and potential liability as part of their service agreements with TPAs.

The FAQs can be found [here](#).