

REMINDER: Gag Clause Attestations Due by December 31, 2023

December 12, 2023

PRACTICES Employee Benefits and Executive Compensation

Employers who sponsor group health plans must submit gag clause attestations by December 31, 2023, on the CMS website at: <https://hios.cms.gov/HIOS-GCPCA-UI>. An employer can also contract with service providers to submit the attestations on its behalf. As a reminder, a group health plan must submit an attestation to the effect that the plan was in compliance with rules prohibiting gag clauses in service provider contracts. Gag clauses include provisions that restrict the plan from: (i) providing provider-specific cost or quality-of-care information to referring providers, the plan sponsor, participants, or eligible employees; (ii) electronically accessing de-identified claims and encounter information, including financial information, provider information, services codes, or other data elements; and (iii) sharing this information with a HIPAA business associate. The attestation due December 31, 2023 is for the time period from December 27, 2020, through the date the attestation is submitted. Any subsequent attestations covering the period since the last preceding attestation are due by December 31 of each year thereafter.