

Submission Deadline for Group Health Plan Gag Clause Attestation

March 7, 2023

PRACTICES Health and Welfare Plans, Employee Benefits and Executive Compensation

The Consolidated Appropriations Act, 2021 (“**CAA**”) prohibits employer-sponsored group health plans from entering into agreements with healthcare providers, networks, third party administrators (“**TPAs**”), or other service providers that generally 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 CAA requires plans to annually submit an attestation of compliance with these requirements. The DOL recently issued FAQs regarding the prohibition on gag clauses and the required attestation. The deadline to submit the first attestation is December 31, 2023, and subsequent attestations will be due by December 31 annually thereafter. In order to comply with these requirements, plan sponsors must (i) ensure that their contracts with service providers do not contain any prohibited provisions, and (ii) determine who will make the required submission after review by the plan sponsor.

FAQs Part 57 is available [here](#).