

## Transparency: Posting Machine Readable Files of In-network Negotiated Rates and Out-of-network Historical Payments

As discussed in prior [compliance articles](#), the Transparency Rules require that non-grandfathered insured and self-insured (including level-funded) group health plans post machine readable rate and payment files on a public site no later than July 1, 2022. A machine-readable file is a digital file of information that can be imported or read into a computer system for further processing. These files should report:

1. In-network providers (INN): Publish negotiated rates for all covered items and services between the plan or issuer and in-network providers.
2. Out-of-network providers (OON): Publish the historical payments to, and billed charges from out-of-network providers (a minimum of at least 20 entries is required to protect consumer privacy).

Plans are not currently required to post machine-readable files on pharmacy in-network negotiated rates and historical net prices for all covered prescription drugs until guidance is released by the DOL on this matter.

The rule is designed to allow this information to be analyzed by third parties so that vendors can provide cost comparison tools to plan participants and beneficiaries. The files will not necessarily be readable or understandable by the average plan participant.

Employers and group health plans must familiarize themselves with this disclosure requirement as insurance carriers and third-party administrators expect group health plan sponsors to assist them with posting the rate and payment files. The first set of questions below provides an overview of the requirements, and the second set provides checklists for both self-insured and insured plans.

### Overview of Transparency: Rate and Payment File Rules

#### What plans must comply with the file posting requirements?

All non-grandfathered insured and self-insured (including level-funded plans) medical plans are required to comply with the rate and payment file posting requirements. Plans providing only Minimum Essential Coverage (“MEC”) must also comply. This requirement extends to plans sponsored by private or public entities, including plans sponsored by state and local governments, churches and tribal plans.

Plans that are grandfathered, stand-alone dental and vision plans as well as HRAs, health FSAs and excepted benefits are exempt.

## What is a “public site”?

A public site is a site (such as an employer’s external website) that can be accessed by any individual without the use of a log-in or password, or any other form of identifier. An intranet site that can only be accessed by those with access to the employer’s network or a benefits portal for employees are not public sites.

## Where do I access the files?

Employers working with fully insured carriers will be granted access to a link that hosts the INN and OON rates or historical payments for the plans offered by the insurance carrier. Self-insured and level funded plans can access these files for INN and OON services from their Third-Party Administrator or Administrative Services Only provider (collectively, TPA).

## What information is included in the files?

Plans are required to disclose in-network provider rates for covered items and services and out-of-network allowed amounts and billed charges for covered items and services. The files must include billing codes used to identify the item or service such as the Current Procedural Terminology (CPT) code, Health Common Procedure Coding System (HCPCS) code, Diagnosis-Related Group (DRG) code or the National Drug Code (NDC) or other common identifiers.

### *In-Network Charges*

Per recent guidance issued by the federal agencies in [FAQ 53](#), self-insured plans and insured plans are required to publish in-network services, all applicable rates in dollar amounts, to the extent available, which may include one or more of the following:

- Negotiated rates,
- Underlying fee schedule rates, or
- Derived amounts for all covered items and services: if the alternative payment methodology does not fall within the specified schema, or if additional information is required to describe the payment parameters, the plan may include a description of the formula, variables, methodology, or other information necessary to understand the arrangement

For alternate payment modalities such as referenced-based pricing, bundled payments, or capitation fees, the plan should also include the underlying fee schedule rates, if available, in addition to the negotiated rates or derived amounts.

However, if a plan agrees to pay an in-network provider a percentage of billed charges and is not able to assign a dollar amount to an item or service prior to a bill being generated, plans are allowed to report a percentage number, in lieu of a dollar amount. For example, if a negotiated arrangement for a particular item or service provides for reimbursement for 70% of billed charges, and the plan is unable to ascertain the dollar amount that will be billed for the item or service in advance, plans will be allowed to report the in-network rate using the applicable percentage of 70.

### *Out-of-network charges*

For out-of-network charges or services, the file must include the historical payments to, and billed charges from, out-of-network providers for all covered items and services. However, guidance states that the data does not have to be reported if the provider has fewer than 20 claims for the item or service during the reporting period.

## Checklists

### What should I do as a sponsor of a self-insured or level-funded medical plan?

As the sponsor of a self-insured or level-funded plan, plan sponsors should consider the following:

- Determine if the TPA will be preparing and making available machine-readable files that conform with the schema issued by the DOL/CMS.
- Identify if the plan provides alternative payment methodologies to determine if special description of formulas or percentages will be required for certain procedures or services.
- Confirm the date the TPA will be making available the machine-readable files for INN and ONN services.
- Identify whether the employer/plan sponsor or TPA will be posting the machine-readable files on a public site. Most large TPAs will require that the sponsor of the self-insured medical plan post the files on their public website.
- If the employer is required to post the files, they need to be made public no later than July 1, 2022.
- If the TPA will be posting the files to its site, an additional link needs to be added to the employer's public site no later than July 1, 2022.
- Review any contracts (if any) provided by the TPA regarding the cost and requirements for providing these services.

### What should I do as a sponsor of a fully insured medical plan?

Plan sponsors of fully insured medical plans should proceed as follows:

- Determine if the insurance carrier will be hosting on their public site the machine-readable files or expects the plan sponsor/employer to post the files on their own public site.
- Determine the date the files will be made available by the insurance carrier
- Identify the plan or plans sponsored by the plan sponsor/employer and retrieve the links to the files for INN and ONN services for each plan (to the extent the files are posted on the insurance carrier's site).
- Post the files on the employer/plan sponsor's public website (if the carrier will be delegating this task to the employer/plan sponsor) no later than July 1, 2022.

- If the carrier is not delegating this task to the employer/plan sponsor, consider posting a link to the insurance carrier's website on the employer's public site no later than July 1, 2022. (This may not be required if your contract with the carrier states that the carrier is fully responsible for the posting of the files.)

## Conclusion

As we fast approach the July 1, 2022 deadline to post machine-readable rate and payment files, it is important for sponsors of insured and self-insured medical plans to understand what their insurance carrier or TPA will be requiring them to do and the timeline that the carriers and TPAs will be making the files available for posting. Employers who do not host a public site may be required to work with their insurance carrier or TPA to determine if the insurance carrier or TPA will host a site in their name, or if the employer will be required to create a public site for the purpose of posting files.

If you have any questions regarding the position taken by your medical insurance carrier or TPA, please contact your HUB representative.

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