HEALTH CARE BULLETIN

HIGHLIGHTS

- The Departments issued a proposed rule regarding new transparency in health care requirements.
- The proposed rule would require plans and issuers to disclose certain information regarding consumer costs.
- The proposed provisions would also apply to self-insured group health plan sponsors.

IMPORTANT DATES

June 24, 2019
President Trump signed an executive order aimed at improving price and quality transparency in health care.

November 15, 2019
The Departments issued a proposed rule on transparency in health care.

Provided By:
Kinloch Consulting Group, Inc.

PROPOSED RULE ON HEALTH CARE TRANSPARENCY TO AFFECT SOME EMPLOYER PLANS

OVERVIEW

On Nov. 15, 2019, the Departments of Labor (DOL), Health and Human Services (HHS) and the Treasury (Departments) issued a proposed rule regarding transparency in coverage that would impose new transparency requirements on group health plans and health insurers in the individual and group markets. Specifically, the proposed rule would require plans and issuers to disclose:

- ✓ Cost-sharing estimates to participants, beneficiaries and enrollees upon request; and
- ✓ In-network provider-negotiated rates and historical out-of-network allowed amounts on their website.

The proposals would only apply to non-grandfathered coverage, and would also apply to self-insured group health plan sponsors.

ACTION STEPS

This proposed rule was issued in response to an executive order issued on June 24, 2019, aimed at improving price and quality transparency in health care. The order is intended to increase availability of health care price and quality information and protect patients from surprise medical bills.

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The Executive Order

The executive order was intended to enhance the ability of patients to choose the health care that is best for them by increasing access to information regarding price and quality of health care goods and services. Specifically, the order was aimed at:

- Eliminating unnecessary barriers to price and quality transparency;
- Increasing the availability of meaningful price and quality information for patients;
- Enhancing patients' control over their own health care resources, including through tax-preferred medical accounts; and
- Protecting patients from surprise medical bills.

The proposed rule would impose new transparency requirements on group health plans and health insurers in the individual and group markets—including self-insured plans.

Among other things, the executive order directed the Departments to issue a proposed rule to require health care providers, health insurance issuers and self-insured group health plans to provide information about expected out-of-pocket costs for items or services to patients before they receive care.

Health Care Transparency Proposed Rule

The proposed rule would impose new transparency requirements on group health plans and health insurers in the individual and group markets—including self-insured plans. Specifically, the proposed rule includes the following two approaches intended to make health care price information accessible to consumers and other stakeholders, allowing for easy comparison-shopping.

- First, each non-grandfathered group health plan or health insurance issuer offering non-grandfathered health insurance coverage in the individual and group markets would be required to disclose personalized out-of-pocket cost information for all covered health care items and services through an internet-based self-service tool and in paper form available to participants, beneficiaries and enrollees (or their authorized representative) upon request. This includes estimates of the individual's cost-sharing liability for health care for different providers.
- Second, each non-grandfathered group health plan or health insurance issuer offering non-grandfathered health insurance coverage in the individual and group markets would be required to disclose to the public (including stakeholders such as consumers, researchers, employers and third-party developers) the in-network negotiated rates with their network providers and historical payments of allowed amounts to out-of-network providers through standardized, regularly updated machine-readable files.

The proposed rule would also allow issuers that share savings with consumers that result from consumers shopping for lower-cost, higher-value services, to take credit for those "shared savings" payments in their medical loss ratio (MLR) calculations. This is intended to ensure that issuers would not be required to pay MLR rebates based on a plan design that would provide a benefit to consumers that is not currently captured in any existing MLR revenue or expense category.

This proposed rule also solicits comments on:

- Whether group health plans and health insurance issuers should also be required to disclose cost-sharing information through other means, such as a standards-based application programming interface (API); and
- How health care quality information can be incorporated into the price transparency proposals included in the proposed rule.

Comments must be submitted by 60 days from the release of the proposed rule. The provisions included in the proposed rule are proposed to apply for plan years (or, in the individual market, policy years) beginning on or after one year after the finalization of the rule. However, the MLR provision would be applicable beginning with the 2020 MLR reporting year.