

EMPLOYEE BENEFITS

Updated Guidance Regarding No Surprises Act Prescription Drug Reporting and Wellness Program Costs

We previously authored an article about the requirement to report certain wellness costs under the No Surprises Act's prescription drug reporting requirement. The article provided in-depth information on the regulations' requirement to report on wellness spending, as detailed in the then-current CMS Prescription Drug Data Collection (RxDC) Reporting Instructions.

Since we first wrote the article on the wellness cost reporting requirement, CMS released revised Prescription Drug Data Collection (RxDC) Reporting Instructions, which are available [here](#). The new instructions reduce the ambiguity in the prior instructions regarding the wellness program reporting and significantly limit the scope of the wellness costs that need to be reported.

The updated instructions now provide that only "wellness services billed on a claim" need to be included in the "other medical costs and services" reporting category and specifically exclude "wellness services that are not covered services under a plan or policy." The instructions provide that for reporting purposes, "wellness services are defined as activities primarily designed to implement, promote, and improve health."

Because the instructions do not further define the term "wellness services," we cannot opine on whether they are intended to include each and every service covered by a medical plan which promotes and improves health and wellness and which are billed to the medical plan on a claim.

However, the regulations specifically provide that the reporting should not include "wellness services not billed on a claim" to the medical plan. Furthermore, services that are included in the other categories of medical spending that must also be reported are likely not included as wellness services. Those other categories are identified in the instructions.

What Actions Might a Plan Sponsor Need to Take Regarding the Wellness Program Component of the Rx Drug Reporting Requirement?

The new instructions make clear that reporting applies only to wellness service-related claims paid by the medical plan. The carrier/TPA will have this information in its possession, along with the other medical spending information that must be reported. While the reporting requirement generally applies to the plan sponsor's group health plan, as we discussed in our prior article, a plan sponsor may contract with the carrier/TPA to provide the reporting.

Reminder: If a third party will be providing the RxDC reporting on the plan sponsor's behalf, the plan sponsor should enter into a written agreement reflecting the third party's agreement to provide the reporting. Plan sponsors should consult their legal counsel for assistance negotiating and drafting any written agreements with third parties to report this information on the plan sponsor's behalf and/or for assistance with self-reporting the information.

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