

Health Care Policy in 2021

What Employers Need to Know

Lehigh Valley Business Coalition on Health

March 2021



National Alliance

of Healthcare Purchaser Coalitions

Driving Innovation, Health and Value

Agenda

- Health care provisions in the Consolidated Appropriations Act of 2021
- Health care provisions in the American Rescue Plan Act of 2021

Consolidated Appropriations Act of 2021

- Enacted on December 27, 2020
 - \$2.3 trillion appropriations bill
 - Funds entire government for FY2021
 - Includes several important health care provisions
- “No Surprises” Act
- Transparency provisions
- Funding for COVID testing, contact tracing, and vaccines

No Surprises Act

- “No Surprises” Act
 - Contained within CAA; combines elements of other surprise billing legislation that has been introduced over the past 18 months
 - Prohibits balance billing by providers in certain specific instances:
 1. qualifying emergency services
 2. qualifying air ambulance services
 3. certain specific services provided by out-of-network providers at in-network facilities
- Patients held harmless
 - For emergency services and non-emergency services *performed by out-of-network providers at network facilities*, the provider generally cannot bill, and cannot hold the patient liable for, more than the cost-sharing amount.
 - Plans must send initial payment or denial directly to the provider/facility within 30 days of the date of service.

No Surprises Act

- Cost-sharing requirements
 - Group health plans must apply in-network cost-sharing to out-of-network emergency services and covered items and services performed by an out-of-network provider at an in-network facility.
 - Cost-sharing amounts paid for these services must count towards the enrollee's in-network deductible and out-of-pocket maximum.
 - This requirement applies equally to air ambulance services.
- Independent Dispute Resolution (IDR)/Arbitration
 - The IDR process involves submission of offers by both sides (plan and provider) with the arbitrator choosing one of the offers and specifies factors that the arbitrator must consider or is prohibited from considering.
 - **Must** consider the qualifying payment amounts for comparable items and services in the same geographic region
 - **Must** consider any requested information, additional circumstances, and the submitted information
 - **Cannot** consider the usual and customary rate, the amount that otherwise would have been billed, or public payor amounts (Medicare, Medicaid)
 - HHS/Labor/Treasury are directed to issue regulations providing further operational details regarding how IDR will work.

CAA Transparency Provisions

- Plans must include information regarding deductibles, out-of-pocket maximums, and consumer assistance resources on any physical or electronic plan or insurance identification cards issued to enrollees.
- Plans must provide an advance Explanation Of Benefits (EOB) that includes certain information, including provider network status and a good faith estimate of the cost-share amount.
- Plans must maintain an online price comparison tool that allows enrolled individuals and participating providers to compare cost-sharing for items and services.
- Plans must verify and update provider directories at least every 90 days and must establish a system to respond, within one business day, to individuals who inquire about the network status of a provider or facility.
- Provides grants for states to establish or improve All-Payer Claims Databases (APCDs). Specifies that the submission of data to state APCDs by self-funded group health plans is voluntary.

CAA COVID-19 Provisions

- \$22.4 billion to states, localities, and territories via the Public Health and Social Services Emergency Fund for testing, contact tracing and surveillance.
- \$8.75 billion to the CDC for vaccine administration, \$4.5b of which goes to states, localities and territories and \$300m of which goes to high risk/underserved populations.
- \$19.7 billion to Biomedical Advanced Research and Development Authority (BARDA) for vaccine, therapeutic and diagnostic development.
- \$3.25 billion to the Strategic National Stockpile to support procurement of vaccines, therapeutics and diagnostics.
- \$3 billion in additional funds to the Provider Relief Fund.

American Rescue Plan Act

- Enacted on March 11, 2021
 - \$1.9 trillion COVID-19 relief bill
 - Health care was not a major focus, but the bill includes a few important health care provisions
- Expanded COBRA subsidies
- Enhanced eligibility for Marketplace financial assistance
- Additional funding for COVID-19 testing and vaccines

ARP COBRA Provisions

- Provides federal subsidies valued at 100% of the health insurance premium for eligible enrollees.
- The law requires the former employer to pay the COBRA premium for subsidy-eligible individuals; the federal government will then reimburse the former employer for this cost.
- Employers are required to provide written notice to employees who become eligible for this subsidy.
- Applies to employees who lose employment completely or have their hours reduced such that they are no longer eligible for employer-provided coverage.
- Employees who voluntarily quit or are voluntarily terminated for reasons such as performance or discipline are *not* eligible for the enhanced coverage.
- Covers premiums for up to 6 months, and is temporary; subsidies can be paid for coverage months no earlier than April 1, 2021 and no later than September 30, 2021. When these subsidies end, individuals can choose to continue unsubsidized enrollment through COBRA.
- HHS/Labor/Treasury regulations are forthcoming.

ARP ACA APTCs

- Reduces the cost of Marketplace coverage for all subsidy-eligible individuals and families by increasing the dollar value of the premium tax credit subsidies.
 - Individuals and families making between 100% and 150% of the federal poverty level (FPL) will not pay anything in Marketplace premiums.
- Expands eligibility for the tax credit subsidies to more individuals. Specifically, more households above 400% FPL, the current maximum eligibility threshold, are newly eligible for subsidies.
- Expands eligibility for marketplace coverage to individuals who receive at least one week's worth of unemployment compensation during 2021.
- These changes are temporary and in effect for tax years 2021 and 2022 only.

ARP COVID-19 Provisions

- \$10 billion for the purposes of carrying out activities under the Defense Production Act.
 - The funding can be used for the manufacturing and procurement of medical supplies and equipment related to combatting the COVID-19 pandemic, including diagnostic products, PPE, drugs, medical devices and biological products.
- \$70 billion for COVID-19 vaccine, testing and workforce efforts. Specifically, more than \$15 billion is geared toward enhancing, expanding and improving the nationwide distribution and administration of vaccines.
- \$6 billion for the research, development, manufacturing, production and purchasing of vaccines, therapeutics and other ancillary products, as well as \$1 billion for efforts to boost vaccine confidence.
- \$47.8 billion to continue implementation of an evidence-based national testing strategy with a focus on components such as detection, diagnosis, tracing and monitoring.