

H.R. 133:

Provisions Impacting Insurers

The Consolidated Appropriations Act of 2021 (H.R. 133) includes provisions that impact insurers, including group health plans, on advancing price transparency. This includes gag clauses in contractual agreements and stopping surprise medical billing.

Price Transparency

The Act requires that group health plans and insurance issuers advance price transparency by:

- Disclosing broker and consultant compensation to individuals and to HHS;
- Providing a detailed analysis of compliance with the Mental Health Parity and Addiction Act;
- Annually reporting on pharmacy benefits, plan spending, enrollee premiums and any drug manufacturer rebates received, including their impact on premiums.

Gag Clauses

The Act prohibits plans and plan-issuers from:

- Entering into provider contracts that prohibit the disclosure of provider-specific cost and quality information — often known as “gag clauses”— regardless of whether the gag clause is directly stated or implied.

Relatedly, providers are not allowed to author contractual arrangements that prevent plans from accessing de-identified claims information.

ERISA: Emergency Services Coverage

H.R. 133 amends ERISA requirements by requiring that plan issuers cover emergency services¹:

- Without the need for prior authorization;
- Regardless of whether the provider or emergency facility is in-network;
- With the same cost-sharing requirements for in-network and out-of-network providers.

Insurers are also directed to:

- Count patients’ cost-sharing payments for emergency services toward any in-network deductibles and out-of-pocket maximums as if they were to an in-network provider;
- Send providers either an initial payment or notice of denial of payment not later than 30 calendar days after the bill for items/services is sent by the provider.

The Secretary of HHS must publish a rule by July 1, 2021, outlining the method for establishing qualifying payment amounts, information-sharing requirements and a complaint process for violations.

¹ Emergent services at a hospital ED or freestanding ED (medical screening examinations, further examinations and screenings, or patient stabilization).