



Published: October 31, 2022

Prescription Drug Reporting Reminder

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As previously reported, plan sponsors of group health plans must submit information annually about prescription drugs and health care spending to the Centers for Medicare and Medicaid Services (“CMS”). The first deadline is December 27, 2022 for reporting on calendar years 2020 and 2021.

Most commonly:

- The carrier will submit on behalf of an insured medical plan.
- The TPA will file on behalf of a self-funded plan (includes a level funded plan) with an integrated medical/drug plan.
- The TPA and PBM will partially file on behalf of a self-funded plan with a carved-out drug program, but the employer may have responsibility for the other parts of the filing.

However, the exact process will depend on the carrier/TPA/PBM and their processes may not yet be announced or may have changed since the last communication. So, there are two important action items:

1. All employers should check with their carriers/TPAs/PBMs now to find out what level of assistance they will provide. Carriers/TPAs/PBMs may need information from plan sponsors and the deadline may be fast approaching, well in advance of the actual deadline.

2. In some cases, employers will have to submit at least part of the filing. For example:
 - a. All UHC ASO Key Accounts and some of the Blues require employers to submit a partial file (P2; D1) for both integrated and carved-out self-funded programs.
 - b. CVS will submit the files in a carve-out drug plan if the employer was with CVS for the full reporting year. If not, CVS will prepare the reports, but the employer must submit them.

If an employer must submit some of the files on behalf of the group health plan, the employer must register with HIOS before filing and receive account information which can take up to two weeks. These employers will need to appoint two individuals, with at least one of those individuals designated as the “RxDC Submitter,” and should start the process now. CMS has resources available to assist in this process:

- HIOS Portal RxDC Quick Guide, <https://regtap.cms.gov/uploads/library/HIOS-Portal-RxDC-Quick-Guide-09-06-2022.pdf>
- HIOS RxDC User Manual, https://regtap.cms.gov/uploads/library/HIOS-RxDC-User_Manual-10-18-2022.pdf

The penalty for noncompliance is \$100 per affected individual. In addition, the DOL can enforce compliance.

Additionally:

- Employers with insured medical plans should enter into written agreements with their insurance carriers to transfer the reporting obligation and liability to the carrier.
- Employers with self-funded plans should enter into written agreements with TPAs/PBMs to ensure the vendor will provide the required reporting to CMS. As the self-funded plan remains liable for reporting, employers should monitor the reporting efforts of the TPA or other third party to help minimize the exposure to liability for any reporting violation.
- The next deadline for RxDC reporting is June 1, 2023 for 2022 calendar year.