

As an employer, do you know your rights to access claims data?



U.S. employer plan sponsors have a legal right and obligation to access important data and information about their group health plans, including medical and pharmacy claim information.

Newer transparency laws like the Consolidated Appropriations Act, 2021 (CAA) are compelling plans to disclose prices for medical services. And now employers are seeking access to medical claims data both to understand where healthcare dollars are going and ensure their plan participants receive cost-effective healthcare services.

Fiduciary duty: your legal obligation as a plan sponsor

Under ERISA, employer plan sponsors have a duty to make decisions in the best interest of their plan participants by following the terms of the plan and avoiding conflicts of interest.

WHAT YOU SHOULD KNOW

Even when managing a plan through a third-party administrator (TPA), employer plan sponsors have a right to access claims and financial information to ensure plan rules are being followed and have oversight into what group health plan fees are charged. Review the contract between your health plan and TPA for additional information on fiduciary duty, audit and oversight provisions.

Gag Clause Prohibition: protection against hidden healthcare agreements

The Gag Clause Prohibition Rule prevents health plans from making agreements that keep them from sharing important information about healthcare costs and quality. This rule aims to ensure that employer plan sponsors can learn more about how much they're paying for medical services and the quality of care.

WHAT YOU SHOULD KNOW

This should enable employer plan sponsors to have access to cost and quality data since contracts can no longer prohibit it.

HIPAA Right of Access: the gateway to health data

HIPAA requires covered entities, including group health plans, to provide individuals access to their protected health information. While TPAs may maintain this information, it is on behalf of the health plan, including information originating with the TPA; employer plan sponsors must be able to access certain records when needed, including payment and claims information. TPAs cannot withhold claims data from employer plan sponsors or claim that it is proprietary.

WHAT YOU SHOULD KNOW

Employer plan sponsors must comply with the HIPAA Right of Access. Therefore, TPAs should not deny employers access to claims data, or else they would be impeding the employer plan sponsor's ability to comply with HIPAA.

Audit rights: ensuring accountability and compliance

Under ERISA, an annual audit of a group health plan's annual report must be conducted by an "independent qualified public accountant", who must examine records necessary to conduct the audit, including information maintained by a third party.

WHAT YOU SHOULD KNOW

Because group health plans have annual independent audit obligations, employer plan sponsors must have access to books and records maintained by TPA.

*Note, this view is informed by our experience and advocacy work; it does not constitute or substitute for legal advice. [See additional information on Employer Rights to Data.](#)



Ready to be a health and care changemaker?

Learn more at
transcarent.com/leadtheway