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The Greatest Gift of All…Tri-Agencies Issue Welcome Relief on Prescription Drug Reporting

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Just three short days before the December 27th deadline for health plans and issuers to report prescription drug and health care spending information to the government, on December 23, 2022, the Departments of Labor, Treasury, and Health and Human Services (the "Departments") issued undoubtedly welcome reporting relief for health plans and issuers facing difficulty meeting the looming deadline.

By way of short background, the Consolidated Appropriations Act, 2021, requires that health plans and issuers report, on an annual basis, certain prescription drug and health care spending information. The first reporting (for 2020 and 2021) was originally due in December 2021, but was delayed to December 27, 2022. The reporting, which is required to be done in precise coordination with the plan's various service providers and uploaded via a specific format to a Centers for Medicare and Medicaid Services website, has proved challenging for many plan sponsors and issuers.

Accordingly, recognizing the significant operational issues facing plan sponsors and issuers in their efforts to comply with the new reporting requirements, the Departments announced two important pieces of relief on December 23rd: (1) The Departments will not take enforcement action against a plan or issuer that uses a good faith, reasonable interpretation of the regulations and the reporting instructions in making its submission for the 2020 and 2021 plan years, and (2) The Departments will permit a grace period until January 31, 2023, for the 2020 and 2021 submissions due on December 27th.

In the guidance, the Departments also addressed a few substantive aspects of the filing requirements, including the data aggregation rules and optional reporting on vaccines, and clarified the permissibility of multiple submissions (by one reporting entity on behalf of more than one plan or issuer) and multiple reporting entities (for the same plan or issuer). The Departments will allow certain limited information to be reported via email. The guidance (in the form of FAQs) can be found here.

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Related Professionals

- **Roberta K. Chevlowe**
  Senior Counsel
- **Jennifer Rigterink**
  Senior Counsel