



AMERICAN BENEFITS COUNCIL

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Council comments on health care regulatory proposal

Increased price transparency has potential to lower health care costs, increase value for consumers

WASHINGTON, DC – In [written comments filed on January 29](#), the American Benefits Council applauded the Trump Administration for “taking steps intended to increase price transparency in order to reduce health care costs” and offered a number of recommendations to mitigate “the increased burden and liability imposed by certain aspects of the proposed regulations on employer plans.”

The Council’s letter emphasizes the critical role that employers play in the health care system, leveraging purchasing power, market efficiencies and plan design innovations to provide health coverage to over 178 million Americans. The Council asserts that “employer plan sponsors can use transparent price and quality information to develop innovative plan designs that steer patients towards higher-value health care providers.” As such, “greater price and quality transparency in health care is an area of critical importance for employer plan sponsors.”

The Council has urged action on health care price and quality transparency for many years and, in its 2014 long-term strategic plan, [A 2020 Vision: Flexibility and the Future of Employee Benefits](#), specifically called for greater quality and price transparency in the health care system. “Employees should have quality and cost calculators and other tools that provide enrollees with specific data about the quality and total out-of-pocket costs of certain services.” Similarly, in [written recommendations to the U.S. Senate Health, Education, Labor and Pensions \(HELP\) Committee](#) last year, we urged Congress to increase employers’ access to health data, especially their own. While the [proposed regulations](#) issued by multiple agencies on November 27, 2019, seem to assume that employers have access to their plan’s pricing information, some employers have faced challenges in obtaining their own plan data from TPAs and issuers. “This needs to be rectified by the Administration or Congress,” the Council’s letter on the proposed rule asserts. The Council asserts that it is vital that final regulations include a safe harbor to address the situation in which a plan is unable to obtain data required to be disclosed.

Additionally, the Council's January 29 letter:

- Supports the proposed cost-sharing estimate tool, but urges some changes to mitigate the substantial burdens associated with its development and maintenance, including limiting disclosure to the most common items and service, with phased-in expansions.
- Calls for new rules requiring pre-service disclosures by providers to participants, of the services included in their treatment and the pricing for the services, in acknowledgment of the essential role health care providers play in health care transparency.
- Strongly recommends that plans have two years, rather than one, to implement any final rules, as one year is not realistic even for the most sophisticated employers and issuers.
- Calls for a safe harbor to guard against the potential for increased litigation under ERISA due to the disclosure of negotiated rates, akin to the litigation that has befallen 401(k) plans.
- Supports increased transparency where it is expected to bring down costs, reduce consumer confusion, and result in more value-driven, informed and efficient consumption of health care services.
- Notes that, in certain markets, for some items and services, the public disclosure of negotiated rates could increase competition and potentially lead to lower health care costs, yet, in highly concentrated markets or as a result of anticompetitive behavior, may increase health care cost. Requests that the final rule be structured to avoid the unintended consequence of higher prices resulting from the public disclosure of negotiated rates.
- Strongly supports additional rules with respect to the transparency of health quality, acknowledging that "price is just one piece of the puzzle and, in terms of value, the price of the health care service does not always correlate with the quality of care."

In addition to our support for regulatory efforts to increase transparency to lower health care costs, the Council applauds congressional efforts to do the same. We are particularly supportive of the Lower Health Care Cost Act (S. 1895), approved by the Senate HELP Committee, which represents an important step in combating rising costs through improving price transparency across the health care delivery system, facilitating the use of value-based insurance designs and addressing "surprise" medical billing.

For more information on the Council's health policy agenda, or to arrange an interview with the Council's health policy team, contact Jason Hammersla, Council vice president, communications, at jhammersla@abcstaff.org or by phone at 202-289-6700 (office) or (202) 422-4652 (cell).

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