



# Proposed Requirements Address Air Ambulance Reporting Requirement

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On September 13, 2021, proposed regulations were issued that would implement certain provisions of the No Surprises Act, requiring group health plans to submit information related to air ambulance claims to the Department of Health and Human Services (“HHS”) for 2022 and 2023.

## ■ Plans Subject to the Requirement

Major medical health plans (insured and self-insured, grandfathered and non-grandfathered) are subject to this requirement.

## ■ Data

The report must include the following data elements with respect to air ambulance services provided under a group health plan:

1. Identifying information for any group health plan, plan sponsor, or issuer, and any entity reporting on behalf of the plan or issuer, as applicable.
2. Market type for the plan or coverage (large group, small group, self-insured plans offered by small employers, and self-insured plans offered by large employers).
3. Date of service.
4. Billing NPI information.
5. Current Procedural Terminology (CPT) code or Healthcare Common Procedure Coding System (HCPCS) code information.
6. Transport information (including aircraft type, loaded miles, pick-up (origin zip code) and drop-off (destination zip code) locations, whether the transport was emergent or non-emergent, whether the transport was an inter-facility transport, and, to the extent this information is available to the plan or issuer, the service delivery model of the provider (such as government-sponsored (federal, state, county, city/township, other municipal), public-private partnership, tribally-operated program in Alaska, hospital-owned or sponsored program, hospital independent partnership (hybrid) program, independent).
7. Whether the provider had a contract with the group health plan or issuer of group or individual health insurance coverage, as applicable, to furnish air ambulance services under the plan or coverage, respectively.

8. Claim adjudication information, including whether the claim was paid, denied, appealed; denial reason; and appeal outcome.
9. Claim payment information, including submitted charges, amounts paid by each payor, and cost sharing amount, if applicable.

## ■ Confidentiality

As the requested information is claims-level data as opposed to aggregate data, HHS proposes to collect only that claims-level data that would be sufficient for producing the comprehensive report required by the No Surprises Act. HHS also intends to collect and maintain the information using information technology systems that are designed to meet all of the security standards protocols established under federal law or by HHS.

## ■ Timing

Plans must submit data regarding air ambulance services on a calendar year (“CY”) basis for 2022 and 2023 within 90 days of the end of the calendar year.

- For CY 2022, by March 31, 2023, regardless of plan year.
- For CY 2023, by March 31, 2024 regardless of plan year.

## Written Agreement

### Insured plans

An employer with an insured plan satisfies the reporting requirements if it requires the health insurance issuer offering the coverage to report the required information pursuant to a written agreement. In this case, the issuer and not the plan is liable for any failure to file.

### Self-funded plans

An employer with a self-funded plan may satisfy the reporting requirements by entering into a written agreement with the third-party administrator (“TPA”). The plan generally remains liable. However, nothing prevents a self-insured group health plan from including a clause in the written agreement for the TPA indemnifying the plan in the event the TPA fails to submit a complete or timely report.

## ■ Employer Action

Employers will not have the required data necessary to report. Therefore, employers should begin reaching out to carriers and TPAs handling their health programs during the calendar year 2022 and enter into written agreements with them, requiring issuers and TPAs to handle reporting. Employers with self-funded plans should consider adding indemnification provisions to their agreements in the event the TPA is not compliant.