

The Consolidated Appropriations Act (CAA) and the No Surprises Act (NSA)

A high-level summary of the most important things all health plans need to know

By *BRSi Compliance*

The CAA (including the NSA and its Transparency Provisions) was implemented to add transparency and consumerism to all health plans with an end goal to hold down medical costs. There are many new health plan requirements employers need to learn about. These requirements are ultimately the responsibility of the Employer/Health Plan. However, if your plan is fully insured, your health insurance carrier will be taking care of the majority of the compliance requirements and associated costs. For employers with self-funded health plans, most PBM/TPA's will support the employer obligations. But you will need to confirm the extent to which your PBM/TPA will comply and if there will be any associated costs.

NO SURPRISE ACT (NSA)- Protections against surprise balance billing including certain disclosure requirements, and create complaint and audit processes for all violations

1. Emergency Services Out of Network (January 1, 2022):

- Prior-Authorization cannot be required.
- Qualification cannot be based solely on diagnosis codes.
- Claims must be paid at the in-network (INN) level for out-of-network (OON) services.
- If the initial payment is not accepted by an OON provider, it will then go to arbitration.

2. Non-Emergency Services provided by an OON provider in an INN facility (January 1, 2022):

- Employee cost sharing cannot be more than the INN benefit cost sharing level (for all providers in the facility).
- If the initial payment is not accepted by the OON provider, it will then go to arbitration.

3. Air Ambulance Services provided by an OON provider (January 1, 2022):

- Plans must cover Air Ambulance for INN and OON providers.
- Employee cost sharing cannot be more than the INN benefit cost sharing level.
- If the initial payment is not accepted by the OON Air Ambulance, it will then go to arbitration.
- The health plan must report detailed information to HHS or DOL for calendar years 2022 and 2023 (due date 3-31-23 and 3-30-24 respectively).

4. No Surprises Notice (January 1, 2022):

- [Standard Notice and Consent Documents Under the No Surprises Act \(cms.gov\)](https://www.cms.gov/medicare/coverage/eligibility/2022-coverage-determinations/no-surprises-act)
- This Notice will most likely be sent with each EOB.

Continued on next page

CAA and NSA – Other Health Plan Requirements:

1. New Health Plan ID Cards must include (January 1, 2022):

- Deductible
- Maximum Out of Pocket amount
- Consumer protection website and telephone number

2. Continuing Care for enrollees in the middle of certain types of procedures when a Provider contract (with the Plan) terminates resulting in a loss of benefits (January 1, 2022):

- Definition of a Continuing Care enrollee:
 - Undergoing course of treatment for a serious and complex condition
 - Undergoing inpatient care
 - Scheduled for nonelective surgery
 - Pregnant and in treatment
 - Terminally ill
- Plan must notify enrollee of provider termination.
- Plan must notify enrollee of their right to elect continued care from that provider.
- Plan must allow enrollee to continue the same benefits under the same terms as if the provider was still INN.
- Care must continue at the INN level for 90 days.

3. Plans must make sure provider directories are up to date and accurate (January 1, 2022):

- Specific provider information is required.
- Provider directories must be updated at least every 90 days.
- Database must be updated within two days of receiving material provider changes.
- Plan must respond to any enrollee inquiry within one business day in writing (electronic or print), and retain all inquiries for two years.
- If the plan incorrectly tells the enrollee a provider or service is INN, they must pay at the INN level.

4. Provider contractual gag clauses no longer allowed (January 1, 2022):

- Provider can no longer enter into an agreement restricting plan from providing certain information including provider specific cost or quality of care data.
- Provider cannot restrict certain enrollee information such as de-identified claims data, provider claim-related financial obligations, service codes, etc.
- Provider cannot restrict claim information or data with a business associate.

CAA and NSA – Other Considerations:

1. Broker Compensation Disclosures (January 1, 2022):

- BRSi has always disclosed all fees for large groups. We will now be providing full disclosure to small groups at your next renewal.

2. Mental Health and Substance Abuse Parity with other benefits (January 1, 2022):

- This makes sure MH and SA benefits are not more restrictive than other services.

3. Publish INN and OON rates (July 1, 2022):

CAA and NSA – Other Considerations (continued):

4. Advance EOBs prior to service (Deferred until additional guidance):
5. Pharmacy benefit and drug cost reporting (December 27, 2022):
6. Price Comparison Tool by phone or internet to provide what a claimant must pay for a specific item or service from a provider (list of 500 services January 1, 2023 / list of all services January 1, 2024):
7. Publish Drug Pricing Rates (Deferred until additional guidance):

BRSi is not licensed to give legal advice. This summary is for informational purposes only and should not be considered legal advice. You should discuss these regulations and requirements with your benefits attorney for further details and obligations.

Additional Resources:

<https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/no-surprises-act>

<https://www.cms.gov/nosurprises>

<https://www.cms.gov/nosurprises/Policies-and-Resources/Overview-of-rules-fact-sheets>

If you have any additional questions or concerns, please contact us at info@benefitreview.com

Page 3 of 3

Benefit Review Services, Inc.

43370 Mound Road
Sterling Heights, MI 48314
586.997.1700
www.brsibenefits.com

816 9th Street SW
Vero Beach, FL 32962
772.257.5439



To view all articles, click [here](#).