

Employer/Producer Frequently Asked Questions

Consolidated Appropriations Act (CAA) Section 201– Increasing Transparency by Removing Gag Clauses on Price and Quality Information

Section 201 of the Consolidated Appropriations Act (CAA) of 2021 and its implementing regulations prohibit health insurance issuers and group health plans from entering into certain provider agreements that would prevent the disclosure of cost or quality of care information or data, and certain other information to active or eligible participants, beneficiaries, enrollees, plan sponsors, or referring providers, or restrict the plan or issuer from sharing such information with a business associate, consistent with applicable privacy regulations.

Questions	Answers
1. Is UPMC Health Plan compliant with section 201 of the CAA?	Yes. UPMC Health Plan has been and remains in full compliance with Section 201 of the CAA since it took effect on 1/1/22.
2. What steps did UPMC Health Plan take to ensure compliance?	<p>UPMC Health Plan did not employ gag clauses prior to the enactment of Section 201 of the CAA, however, to provide additional clarity regarding its compliance with Section 201, UPMC Health Plan provider manuals were modified to state:</p> <p><i>Nothing in the provider agreement, Provider Manual or UPMC Health Plan policies applicable to providers shall be construed as a gag clause that would directly or indirectly restrict UPMC Health Plan from:</i></p> <ul style="list-style-type: none"> • <i>providing provider-specific cost or quality of care information or data, through a consumer engagement tool or any other means, to referring providers, plan sponsors, Members, or individuals eligible to become Members; or</i> • <i>electronically accessing de-identified claims and encounter information or data for each Member, upon request and consistent with the applicable federal and state privacy laws and regulations; or</i> • <i>sharing such information or data, or directing that such data be shared, with a business associate.</i>
3. Is there new guidance related to Section 201 of the CAA?	Yes, on February 23, 2023, the Departments of Health & Human Services, Labor, and the Treasury (the Departments) issued instructions explaining how group health plans are to comply with the gag clause attestation requirements of Section 201.
4. Will UPMC Health Plan attest on behalf of its Fully Insured and Self-Funded (ASO) employer group clients?	Yes. Beginning with the December 31, 2023 submission, and continuing with subsequent reporting timeframes issued by the Departments, UPMC Health Plan will submit an attestation of compliance with CAA Section 201 to the Departments.
5. Do employer groups need to take any action to request UPMC Health Plan make applicable attestations regarding Section 201?	No. UPMC Health Plan will attest automatically and within timeframes established by the Departments. No employer group request or action is required.
6. Will UPMC Health Plan confirm attestation?	UPMC Health Plan will provide a confirmation statement once the attestation cycle has concluded.
7. Will there be a charge for the attestation?	There will be no charge.