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Plan Sponsor Notice: Gag Clause Prohibition Compliance Attestation

In late February 2023, the IRS, DOL and HHS issued a joint announcement detailing how group health plans are to comply with the gag clause attestation requirements, or Gag Clause Prohibition Compliance Attestations (GCPCA), established by the Consolidated Appropriations Act, 2021.

Employer sponsored group health plans (both self-funded and fully insured) are prohibited from entering into agreements with a health care provider, network or association of providers, Third Party Administrator, or other service provider where the plan is restricted from accessing and sharing certain information. Employer sponsored group health plans (both self-funded and fully insured plan sponsors) are also required to submit an annual attestation that the plan is in compliance with these requirements.

Aetna will <u>not</u> submit the attestations on behalf of Plan Sponsors regardless of whether they are self-funded or fully insured. Aetna does not have all the information required to file the report on behalf of Plan Sponsors.

Plan sponsors must submit their attestation through the web form that the Centers for Medicare and Medicaid Services (CMS) has created.

To support your attestation, included with this notice is a confirmation of compliance from Aetna. We have conducted a review of our provider and vendor contracts and are confident that we are in compliance with the gag clause requirements.

Additional information regarding the Gag Clause Prohibition requirements can be found on the CMS website at https://www.cms.gov/cciio/programs-and-initiatives/other-insurance-protections/gag-clause-prohibition-compliance. On this site, plan sponsors can find Frequently Asked Questions, detailed instructions for submitting the attestations, a link to the reporting template, and a link directly to the Webform for submission.

If you have additional questions, reach out to your field team.

Plan Sponsor Resources

- **CMS – Gag Clause Prohibition Compliance Attestation**
- **CMS - FAQs**
- **Instructions**
- **GCPCA Excel Template**
- **User Manual**
- **Webform to Submit GCPCA**