



July 23, 2021

Office of Health Plan Standards and Compliance Assistance,
Employee Benefits Security Administration, US Department of Labor,
Attention: Request for Information Regarding Reporting on Pharmacy Benefits
and Prescription Drug Costs
200 Constitution Avenue NW
Room N-5653
Washington, DC
20210

*Submitted electronically to regulations.gov
re: Reporting on Pharmacy Benefits and Prescription Drug Costs (CMS-9905-NC)*

Dear Sir or Madam:

We are pleased to share our insights in response to the request for information related to certain reporting and data collection requirements under section 204 of Title II of Division BB of the Consolidated Appropriations Act, 2021 (CAA) that are applicable to group health plans and health insurance issuers offering group or individual health insurance coverage. We commend the dedication of the Office of Personnel Management; Internal Revenue Service, Department of the Treasury; Employee Benefits Security Administration, Department of Labor; Centers for Medicare & Medicaid Services, and the Department of Health and Human Services to drug pricing transparency and share in your enthusiasm for affordable and accessible healthcare and prescriptions.

As an HRA administrator that helps employer reimburse employees for individual health insurance plans through individual coverage HRAs (ICHRAs) with an enrollment team that helps employees choose the right individual health insurance plan for their needs, we bring a unique perspective as it relates to the potential for redundancy, unreliable and incomplete data from our own platform, data privacy violations of our clients, and logistical impracticality.

These data collection and reporting requirements should not extend to individual coverage HRAs and those who administer them for the following reasons:

Annual reporting for individual coverage HRAs through forms 1094 and 1095 B and C already includes the data fields mentioned, including: beginning and end dates of the plan year, the number of participants, beneficiaries, or enrollees, as applicable, and each state in which the plan or coverage is offered.



Additional reporting would be redundant since the requirement to participate in an ICHRA is that employees must have insurance purchased from the individual market or Medicare. The reports that carriers and Medicare provide would be more robust and accurate as they will have access to all prescriptions that were filed under insurance per person and the cost associated.

Due to the nature of ICHRA being a type of HRA, our data is limited to plan design and claims submitted for reimbursement. Because of this we do not have access to all the relevant prescription information the departments are requesting.

It's important to note that while many of our clients (employers) offer reimbursement allowances more than the premium amount, leaving room for extra reimbursements for things like prescriptions, there are certainly many that do not cover the entire premium portion. If any of the employees of those employers chose to buy a prescription, they wouldn't be utilizing their ICHRA to be reimbursed for those drugs, giving us no insight on what prescriptions they would actually select. Similarly, we've found that many employees when faced with a small reimbursement (some generics cost less than a dollar), won't take the time to submit a receipt for reimbursement on our platform. In those cases, we wouldn't have any visibility either.

Lastly, in the interest of the privacy of all employees on our site, we gather the minimum amount of information we need to substantiate claims on our platform and do not store information related to exact drugs due to privacy concerns.

As demonstrated above, ICHRA plans will not be a reliable source of information for these purposes. We urge the Departments to consider the drawbacks listed in our comments and to issue additional guidance on which parties are subject to reporting requirements and which parties, like HRA administrators, will not be subject to these requirements.

Please contact me with any questions you may have. I can be reached at (469) 444-7447 or jack@takecommandhealth.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jack Hooper'.

Jack Hooper
CEO
Take Command Health