

What is the Gag Clause Prohibition?

See below for details and Carrier Response.

Gag Clause Prohibition Compliance Attestation is due by December 31, 2023

On Feb. 23, 2023, the Departments of Labor, Health and Human Services and the Treasury (Departments) issued FAQs on the prohibition of gag clauses under the transparency provisions of the Consolidated Appropriations Act, 2021 (CAA).

These FAQs require health plans and health insurance issuers to submit their first attestation of compliance with the CAA's prohibition of gag clauses by Dec. 31, 2023.

To learn more about the Gag Clause Prohibition Compliance, click the link below.

[Read More Here](#)

Gag Clause Prohibition Carrier Response



Aetna has revised their approach and is now filing the attestation on behalf of both FI and AFA customers.

Please click the button below to download more information.

[Aetna Small Group Update](#)



More information to follow.



Fully Insured Clients:

Anthem will file the Gag Clause Prohibition Compliance Attestation on behalf of their Fully Insured, Small Group MEWA, ABF, Minimum Premium and FEHP clients by the December 31, 2023, deadline. There is no action required.

Self Funded Clients:

Self Funded clients will have to file their attestation through the [CMS HIOS](#) portal by the December 31, 2023, deadline. They must work with any third-party or carveout vendor they work with for any portion of their data requiring attestation, such as carveout PBM.



Cigna will only file attestations on behalf of Fully Insured customers. For Self Funded and Level Funded customers please see the attached letter of compliance for those plan sponsors who will need to file.

Please click the button below to download the letter of compliance.

[Letter of Compliance](#)



Cigna + Oscar will be filing on behalf of their customers and will be sending out a communication confirming this in the coming weeks.



After review of the guidance issued by the government and a detailed analysis of the required information and submission process, ConnectiCare has decided they will not be completing the required attestation on behalf of their clients.

As such, clients – whether self-funded/ASO or fully insured – will need to provide their own attestations to the government. ConnectiCare, however, will provide their clients with written assurance that their contracts with providers comply with the CAA gag clause prohibition.



SELF FUNDED RESPONSE:

Under the CAA, the self-insured group health plan is required to file an annual gag clause prohibition attestation applicable to its self insured plans in accordance with the CAA requirements. Harvard Pilgrim will assist self-insured plans by providing a confirmation of compliance with the no gag clause requirements prior to the filing due date, but self-insured plans are ultimately responsible for submitting their plan's attestation directly with the government

FULLY INSURED RESPONSE:

As the health carrier and/or issuer of our fully insured commercial plans, under the CAA, Harvard Pilgrim is required to and will file an annual gag clause prohibition attestation applicable to such fully insured plans in accordance with the CAA requirements. Our fully insured group accounts will not need to submit a duplicative attestation, as our submission will satisfy such annual attestation submission requirement.



Health New England

More information to follow.



Mass General Brigham

Annual Gag Clause Prohibition Attestation (GCPA)

Mass General Brigham Health Plan is in the process of reviewing the instructions and other guidance released regarding the annual Gag Clause Prohibition Compliance Attestation for the reporting period beginning December 27, 2020 and ending December 31, 2023. We are also assessing the information required for the submission. We will update our brokers and accounts with additional information regarding our attestation reporting process in the near future.



United Healthcare

United Health Care will be filing on behalf of their Fully Insured customers. Self Funded and Level Funded customers will need to attest on their own. The letter of compliance should be released at the end of the 3rd quarter.