Concrete Steps Employers Can Take With The New ERISA Rules Webinar Toolkit

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Utilize Leapfrog's CAA Compliance Webinar Series resources by visiting:
https://www.leapfroggroup.org/employers-purchasers/caa-compliance-webinar-series

Access Health Rosetta's Open Source Resources here:
https://healthrosetta.org/opensource/

Download Dave's book, "Health Plan Heroes (Case Study Booklet) - The CEOs Who Restored the American Dream" for free here:
https://healthrosetta.org/friends/

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CAA and Quality

Leah Binder, President and CEO, The Leapfrog Group

August 1, 2024



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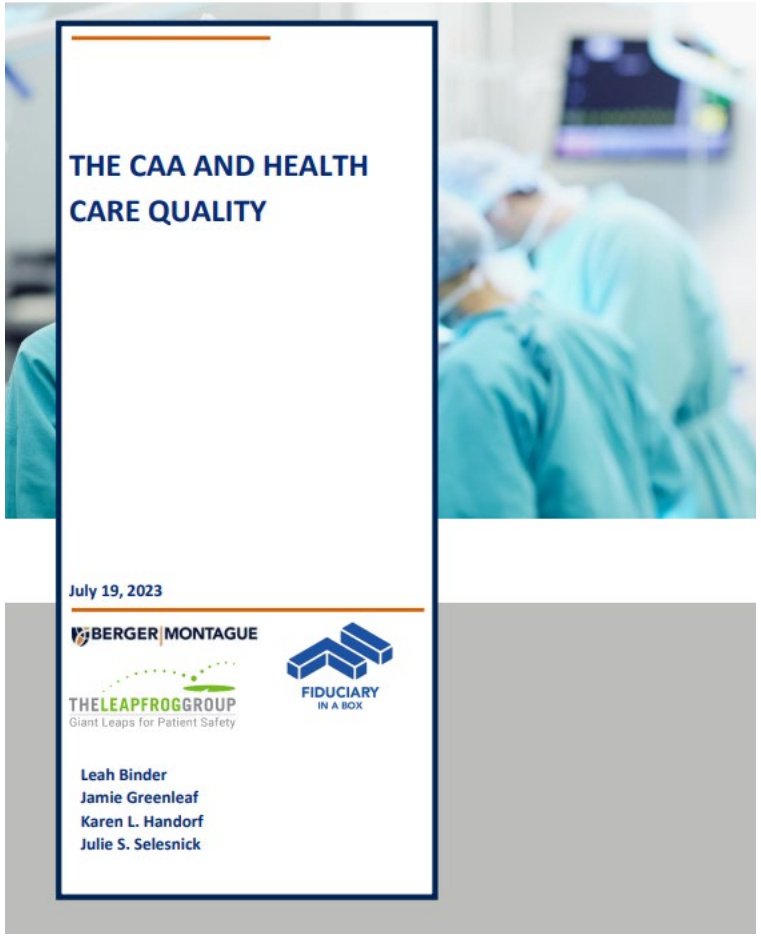
Consolidated Appropriations Act of 2021 (CAA)



- Employers and purchasers are responsible for ensuring cost-effective, high-quality health benefits, and transparency is key.
- Health plans must provide cost and quality-of-care data; participants should use this to find the best care at the best price.
- High-profile lawsuits and DOL investigations highlight the stakes.

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There is No Good Price for Bad Care



- The CAA is known for price and cost-share transparency, but there is strong language on quality as well.
- Plan sponsors need to demonstrate diligence and transparency disclosing comparative quality and pricing information to beneficiaries.
- Quality and patient safety transparency can mitigate plan sponsor risk

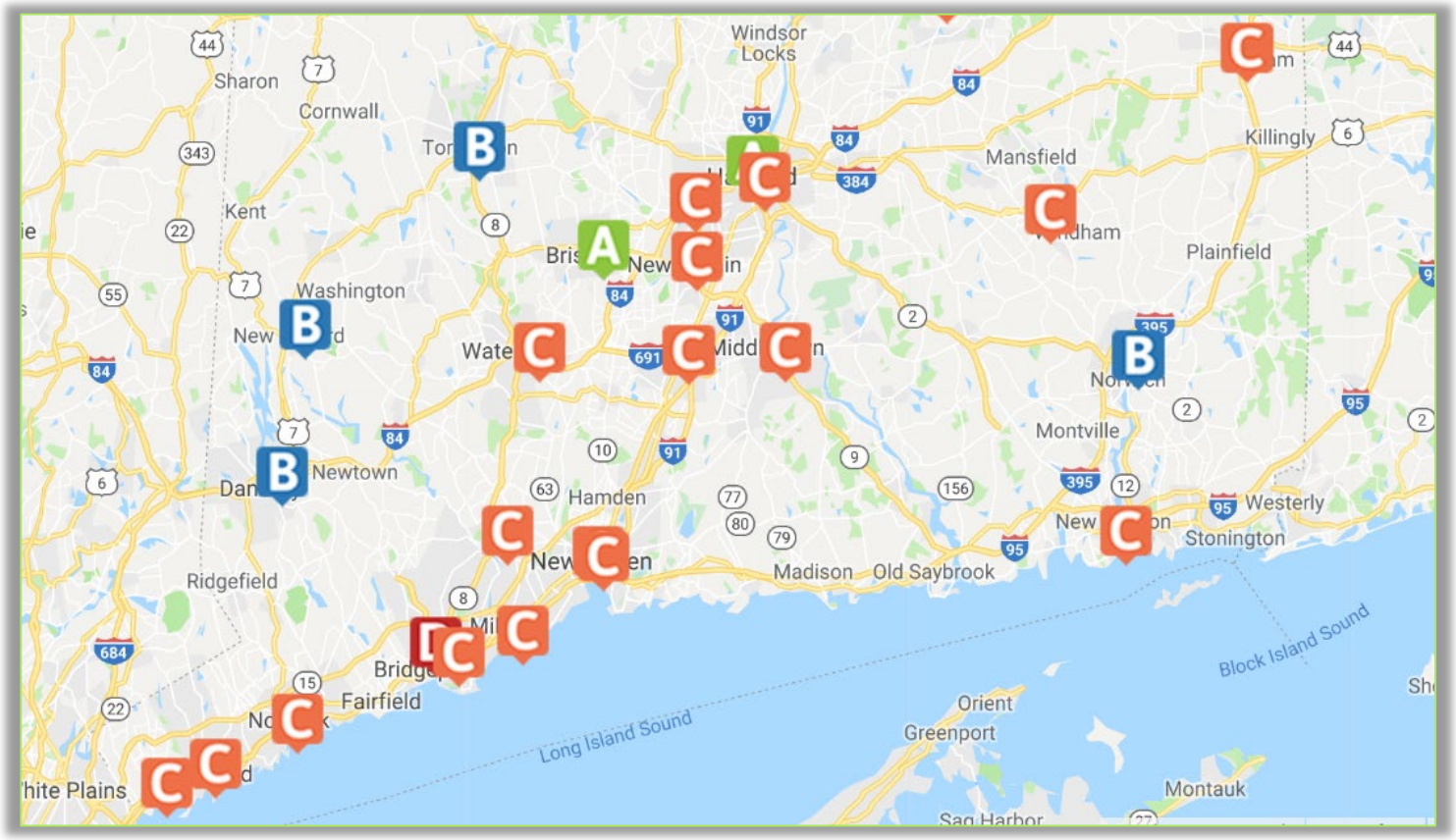
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Leapfrog: A Purchaser-Driven Movement For Better Health Care

- Founded by purchasers in 2000 in response to 1999 IOM Report *To Err is Human*
- Fundamental principle: open and transparent marketplace for care
- Employers should approach health benefits the way they approach other purchases

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Highest Standards in the U.S.





Measure name	Leapfrog's Standard	Hospital's Progress
Billing Ethics	Hospitals should provide patients with complete billing information and access to a representative that can quickly resolve billing issues. In addition, hospitals should not sue patients over late or unpaid bills.	CONSIDERABLE ACHIEVEMENT
	SHOW MORE ON THIS HOSPITAL'S PERFORMANCE	
Health Care Equity	Hospitals should examine their own data to identify any differences in processes or outcomes for patients of different races and ethnicities, and patients who speak different languages. Hospitals should also put action plans in place if differences are identified.	LIMITED ACHIEVEMENT
Informed Consent	Hospitals should ensure that all patients are fully aware of risks and alternatives prior to procedures.	SOME ACHIEVEMENT
	SHOW MORE ON THIS HOSPITAL'S PERFORMANCE	
Responding to Never Events	Hospitals should have a never events policy that includes all nine (9) actions that should occur following a "never event," which includes apologizing to the patient and not charging for costs associated with the never event.	ACHIEVED THE STANDARD

More Information

Preventing Patient Harm

Medication Safety

Measure name	Leapfrog's Standard	Hospital's Progress
Safe Medication Ordering	Hospitals should enter at least 85% of inpatient medication orders through the CPOE system, and should fully demonstrate their CPOE system meets the national safety standard for decision support.	ACHIEVED THE STANDARD
	SHOW MORE ON THIS HOSPITAL'S PERFORMANCE	
Medication Reconciliation	Hospitals should have a rate of unintentional medication discrepancies per medication that is lower than or equal to the 50th percentile (where lower performance is better) nationally.	LIMITED ACHIEVEMENT
Safe Medication Administration	Hospitals should have nurses and other clinicians use BCMA in all medical/surgical units, intensive care units, labor and delivery units, pre-operative and post-anesthesia care units to scan the patient and medication prior to administration at least 95% of the time. The BCMA system includes decision support to prevent errors and the hospital has processes to prevent workarounds.	ACHIEVED THE STANDARD
	SHOW MORE ON THIS HOSPITAL'S PERFORMANCE	
Medication Documentation for Elective Outpatient Surgery Patients	Hospitals should document 90% or more of home medications, visit medications, and allergies/adverse reaction(s) in the patients' clinical record.	CONSIDERABLE ACHIEVEMENT
	SHOW MORE ON THIS HOSPITAL'S PERFORMANCE	

Healthcare-Associated Infections

SPECIALTY CARE

Critical Care

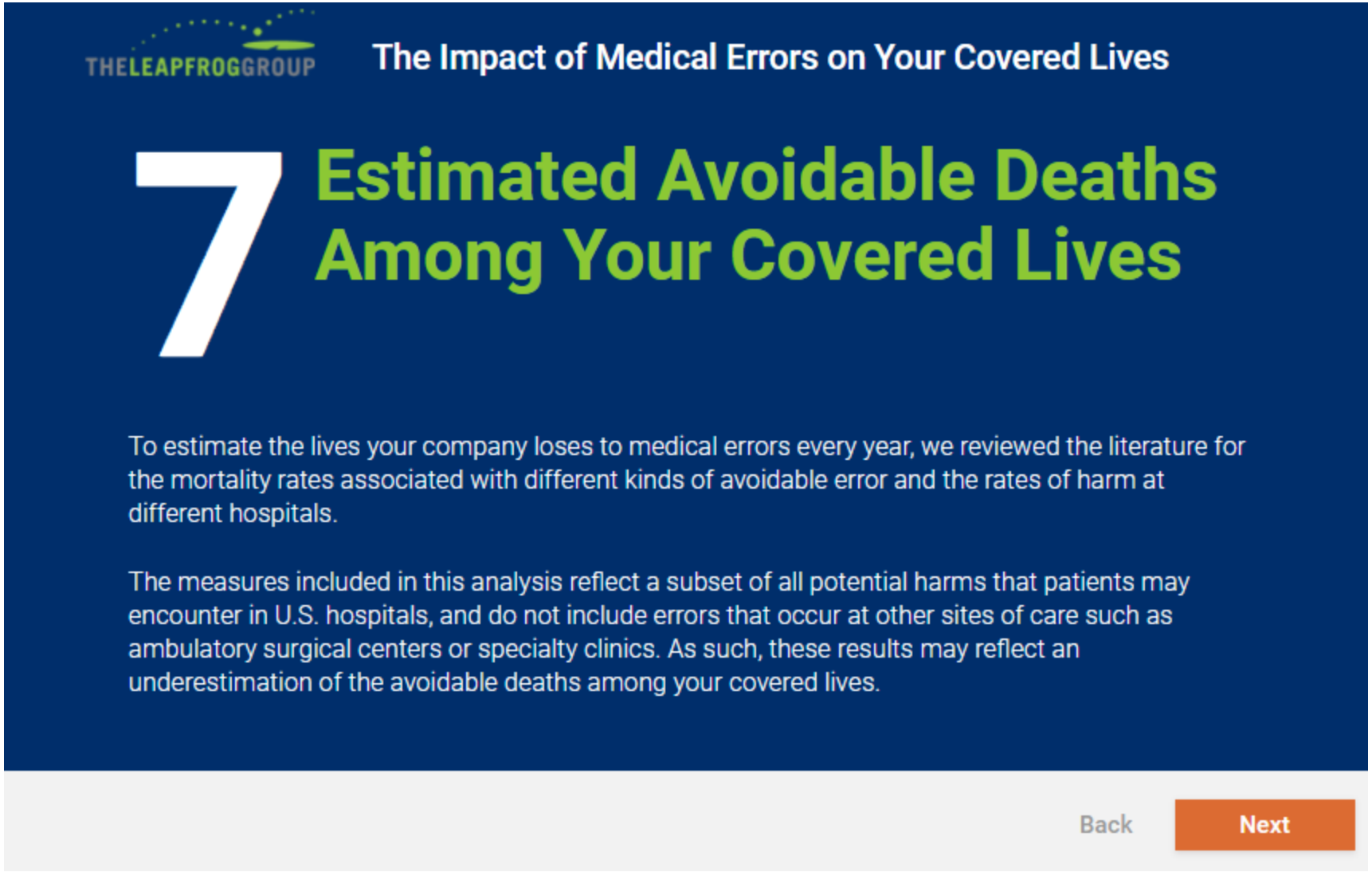
Pediatric Care

Maternity Care

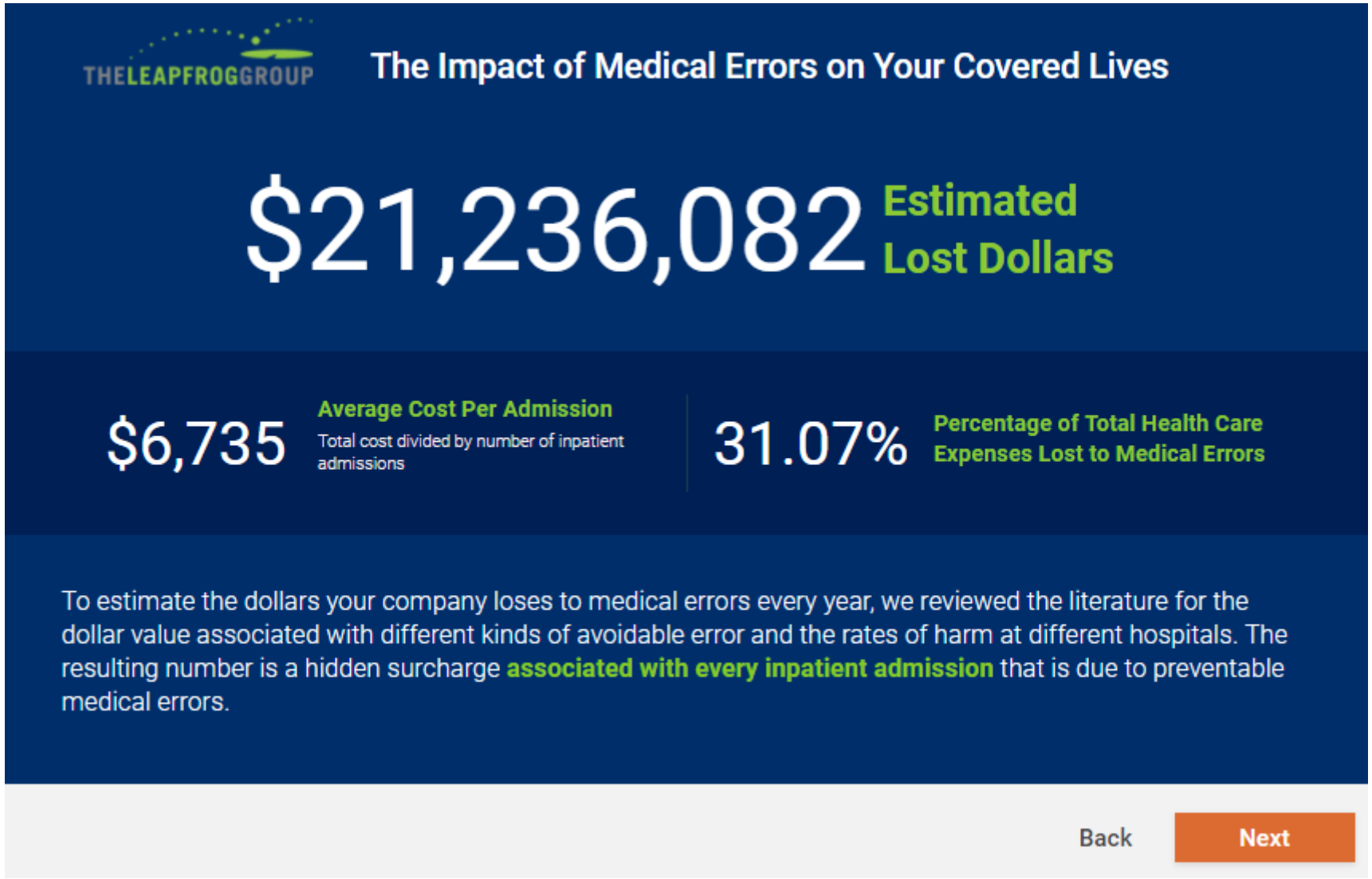
Measure name	Leapfrog's Standard	Hospital's Progress
High-Risk Deliveries	Hospitals should deliver at least 50 very-low birth weight babies per year OR the hospital must maintain a lower-than-average morbidity/mortality rate for very-low birth weight babies.	ACHIEVED THE STANDARD
	SHOW MORE ON THIS HOSPITAL'S PERFORMANCE	
Cesarean Sections	This is defined as first-time mothers giving birth to a single baby, at full-term, in the head-down position who deliver their babies through a C-section. Hospitals should have a rate of C-sections of 23.6% or less.	CONSIDERABLE ACHIEVEMENT
	SHOW MORE ON THIS HOSPITAL'S PERFORMANCE	
Episiotomies	This is defined as mothers having an incision made in the perineum (the birth canal) during childbirth. Hospitals should have a rate of episiotomies of 5% or less.	ACHIEVED THE STANDARD

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Lives and Dollars Lost to Medical Errors
A Risk Calculator for Employers and Other Purchasers
Estimate the number of avoidable deaths among your covered lives
Identify the hidden surcharge you pay for each inpatient admission due to medical errors
Calculate how much of your total health care spend goes to medical mistakes
Get Started



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What employers should expect from TPAs and consultants



Provider network selection based on transparent quality and cost data



Deductibles and copays structured for affordability



Contracting principles aligned with employee interests



Information on quality and cost of providers available in an accessible format

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A Historic Moment



Employers must engage in a documented process to show they are acting in the best interest of their employees.

A marketplace of tools and resources exists to support employee decision-making and to promote the quality and value of care.

Employers have a unique opportunity and responsibility to make a difference in the health of our country.

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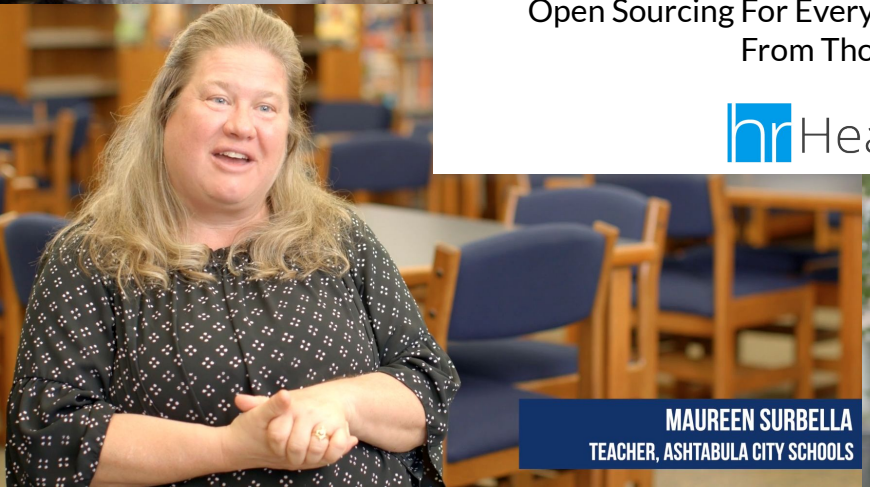




FORBES: THIS FEDERAL LAW WILL COMPLETELY OVERHAUL COMPANY BENEFITS. ~~NOBODY IS~~ *SOME ARE* READY

Open Sourcing For Everyone Proven Strategies/Resources
From Those Who *Are* Ready

Health Rosetta





Why CAA: Traditional Employer Health Plans are Failing Both Employers & Plan Members

Traditional Employer Health Plans	
Employer Cost	**~$15,000** per employee per year (50% < $60k/yr)
Employee Cost	**$2000-$10,000+** deductibles (56% don't have $1,000 at hand)
Lower Quality of Care	Misdiagnosis rates range from **20-67%**
Poor Access to Care	Financial barriers, long waits, limited availability

Impact

30 years
of wage gains stolen

#3 cause
of death (preventable mistakes)

#1 cause
of debt, bankruptcy

Highly confidential. Do not share without permission.

Leading Employer Health Plans Solve These Failures

Greater Compliance is Great for Employee/Employer

High Performance Health Plans	
Employer Cost	**$8,000-$12,000 Per Employee Per Year (20-45% lower)**
Employee Cost	Lower premiums; **$0** cost-sharing
Higher Quality of Care	Care Navigation + Centers Of Excellence
Access to Care	24x7x365 Access; $0 Primary Care/Prescriptions

Impact

Life changing impact for plan members

Re-opens the door to the **American Dream**

Highly confidential. Do not share without permission.

Case Studies

Leading employers stop health plans from being the #1 driver of wage stagnation, debt, and bankruptcy

PACIFIC STEEL & RECYCLING

Workforce has 7-figure nest eggs

EMPLOYEES
700+

COST REDUCTION
56%

SAVINGS
$4.5M / YEAR

ROSEN HOTELS & RESORTS

Huge impact on education and crime outcomes

EMPLOYEES
5,000+

PER CAPITA SAVINGS
55%

SAVINGS
$540M (30 YEARS)

32BJ BENEFITS



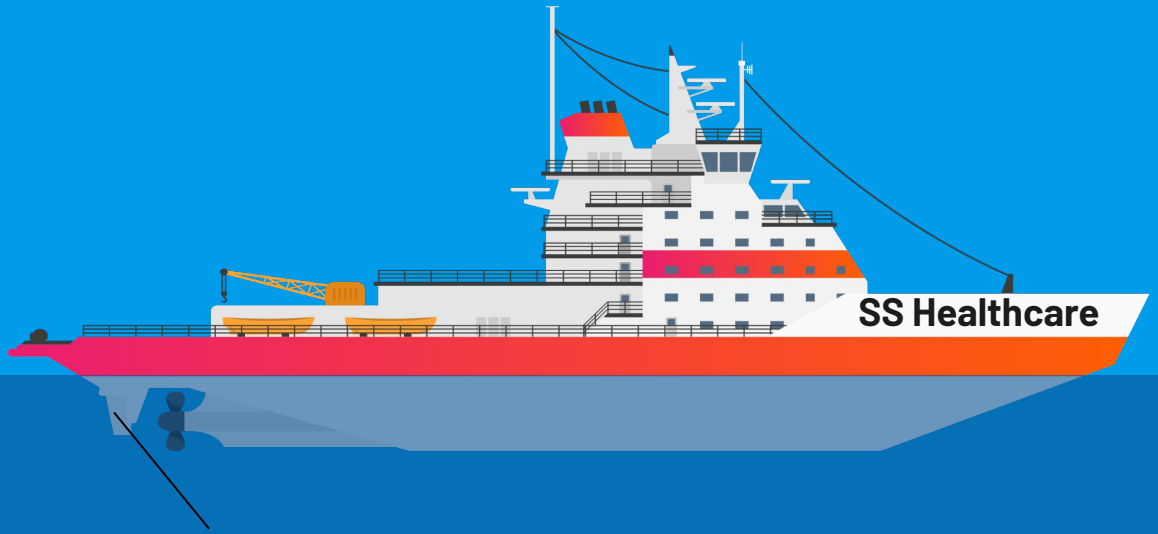
$500B
Recurring Economic Stimulus Potential

HeRo Dividend Uses:

- ✔ **Fund college education**
- ✔ **Add dependent coverage**
- ✔ **Fund home solar**
- ✔ **Unprecedented bonuses/raises**
- ✔ **Subsidize healthy food**
- ✔ **Fund daycare**

Highly confidential. Do not share without permission.

CAA/TIC Goal: Biggest Regulatory Shift Since 1943 Designed to Avoid Largest Generation in History From Being Crushed



Millennial lifetime earnings going to healthcare

$0.6M Visible payments*

+

$1.3M Hidden payments**

$1.9M Grand total

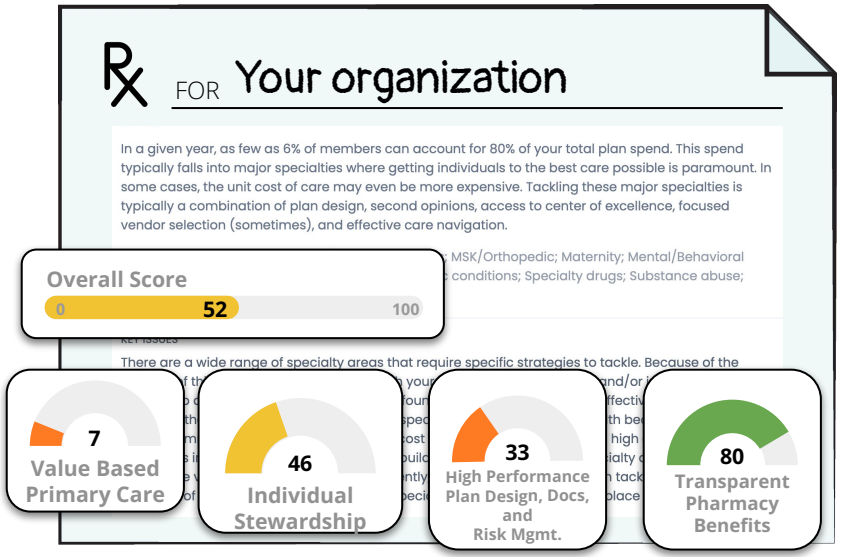
$3.8M Total lifetime earnings

1: Consolidated Appropriations Act of 2021
2: Transparency in Coverage Executive Order

*Visible: Medicare taxes & premiums; Deductibles & out-of-pocket expenses; Insurance premiums
**Hidden: Employer premiums; Employer Medicaid taxes; Federal & state taxes


T-Mobile
Corporate O
Schlichter Bog
WASHINGTON
OREGON
IDAHO
WYOMING
NEBRASKA
IOWA
NEVADA
UTAH
COLORADO
KANSAS
MISSOURI
United States
PetSmart
Corporate Office
Schlichter Bogard ta...
OKLAHOMA
Caterpillar Inc
Schlichter Bogard ta...
Insperity -
Corporate - Center 5
Schlichter Bogard ta...
San Antonio
Houston
Monterrey
Gulf of Calif
Ottawa
Montreal
Toronto
NB
PE
MAINE
NEW YORK
RI
Boston Scientific
Corporation
Schlichter Bogard ta...
Dollar Tree
Schlichter Bog
KENTUCKY
Genuine Parts Company HQ
Schlichter Bogard ta...
FLORIDA
Forbes
FORBES > INNOVATION > HEALTHCARE
This Federal Law Will Completely Overhaul Company Health Benefits. Nobody Is Ready.
Leah Binder Contributor
Follow
CEO'S GUIDE
Restoring
The American Dream
HOW TO
DELIVER WORLD CLASS HEALTHCARE TO YOUR EMPLOYEES AT HALF THE COST
DAVE CHASE
CHAPTER 19
"ERISA FIDUCIARY RISK IS THE LARGEST UNDISCLOSED RISK I'VE SEEN IN MY CAREER"

Health Plan “Second Opinion” – Plan Grader™ Dx/Rx



“It’s absurd that there are no quality scores, ratings, or reviews for health plans. Plan Grader is the **most objective metric** we’ve discovered. Even reading the Plan Grader questions revealed areas for improvement.”

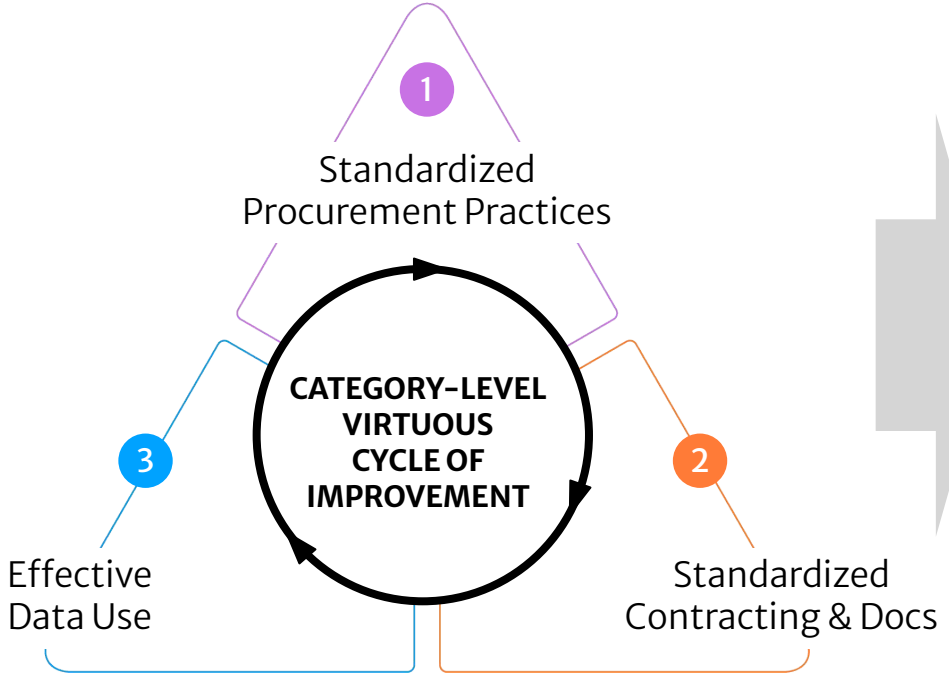


Russell DuBose,
Vice President of Human Resources, Phifer Inc.



Open Standardization Creates A Virtuous Cycle

Benefits All Stakeholders



Plan Performance
The Carrot

Fiduciary Duty Mgmt
The Stick

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RFP:EMPLOYEE BENEFIT ADVISOR SERVICES
Sample RFP Template Questions & CAA Comp Disclosure

Available now (www.healthrosetta.org/opensource)

- Compliance Guide: Gag Clause Prohibition Compliance Attestation
- Beta TPA RFP Questions
- ASA/ASO Key Issues Checklist
- Beta Model ASA/ASO Contract Clauses

Coming Soon (RosettaFest)

- Benefits Advisor/Consultant RFP Template
- TPA & PBM Field Guides
  - Standardized Procurement Practices
  - Model Contract Language & Checklists
  - Data Use Guide
- Medical Extract Transform & Load (METL) data access platform

REQUEST FOR PROPOSAL:EMPLOYEE BENEFIT ADVISOR SERVICES

Sample RFP Template Questions & CAA Comp Disclosure

Advisor Background and Experience - For three clients, please provide summaries of how you implemented components of high-performance health plans, including how you selected the strategies and partners, how you enabled successful implementation, and how you monitored performance and made ongoing improvements.

Services - Provide 2 scenarios that demonstrate your capabilities in ongoing plan performance monitoring and claims experience analysis that provided insight to adjust the plan strategy for a current client.

Compensation - If you do take direct payments from employers, what percentage of your benefit revenue is fee-based and what percentage is commission-or bonus-based across your entire book of business?

State your philosophy of compensation disclosure.

Expected Financial Compensation from External Vendors

Category	Vendor	Effective Date	Compensation Type	Total Compensation
Medical				
Rx				
Dental				
Vision				
Stop loss				
EAP				
FSA				
Group Life				
AD&D				
LT Disability				
ST Disability				
Cancer				
Critical Illness				
Wellness				
Disease Mgmt.				
Broker Fee				
Other				
Total				


REGISTRATION OPEN
2024
RosettaFest
A Work of Heart
SEPTEMBER 11-13, 2024
WASHINGTON D.C.
ROSETTAFEST.ORG
Health Rosetta

Thank you!

dave@healthrosetta.org

“The hair rose on the back of my neck during RosettaFest as the Health Rosetta movement felt just the same as when the LEED standards were about to explode and fundamentally transform a multi-trillion dollar market.”



Sandy Wiggins,
Chairman of US Green Building Council during LEED standard hypergrowth phase (2000-2009)

ERIC | *Shaping benefit policies before they shape you.*

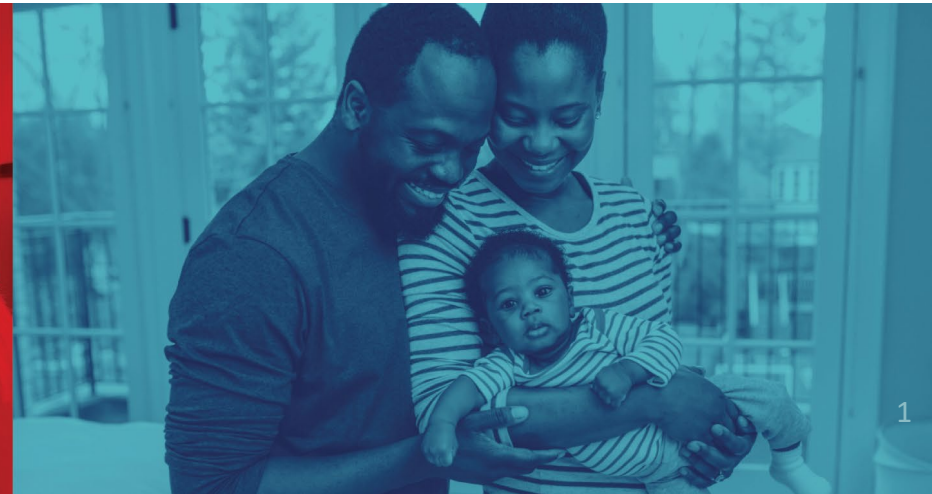
August 1, 2024



CONCRETE STEPS EMPLOYERS CAN TAKE WITH THE CAA

Melissa Bartlett
Senior Vice President, Health Policy
The ERISA Industry Committee (ERIC)







ERISA IN ITS PRIME – CONGRESSIONAL INTEREST

Uniformity

Autonomy **Flexibility**

Fairness

- Congress interested in modernizing ERISA celebrating 50 years
- Several areas of focus in issued RFI and congressional hearing

ERIC'S RFI RESPONSE



Preemption

- Preserve and reinforce
- Defend benefits design
- State attempts
  - PBMs
  - Telehealth
  - APCDs
  - "Play-or-play laws"
  - State innovation waivers



Fiduciary Responsibility

- Vendors involved in pharmacy benefit management services be designated as fiduciaries



Reporting

- Electronic delivery
  - Urge DOL and HHS to prioritize rulemaking
- Compensation transparency and disclosure requirements
  - PBMs and consulting subsidiaries be subject to CAA requirements
- Gag clause attestation requirements
  - Claims data access, NDAs, submitter liability



Data sharing

- Health care transparency and PBM reform
  - LCMT (H.R. 5378)
  - PBM Reform Act (S. 1339)
- Improvements to TiC
  - Require API
  - Increase reporting frequency
  - Consolidate tools and processes
- APCDs
  - Creation of federal APCD



Cybersecurity

- No new broadened requirements under ERISA
- Allow industry to adopt practices in real-time
- Consolidation cybersecurity directives among agencies

CURRENT FOCUS – HEALTH CARE TRANSPARENCY & PBM REFORM

Lower Cost, More Transparency Act (H.R. 5378)

- Tri-Committee product
- Overall good step forward – but stops short
- Hospital, health plan and PBM transparency requirements
- Some site neutrality and honest billing policies directed at bad hospital practices

Pharmacy Benefit Manager Reform Act (S. 1339)

- HELP Committee
- PBM transparency AND reforms
- ERIC and 50 + organizations letter to Senate Leaders stating strong support

Modernizing and Ensuring PBM Accountability Act (S. 2973)

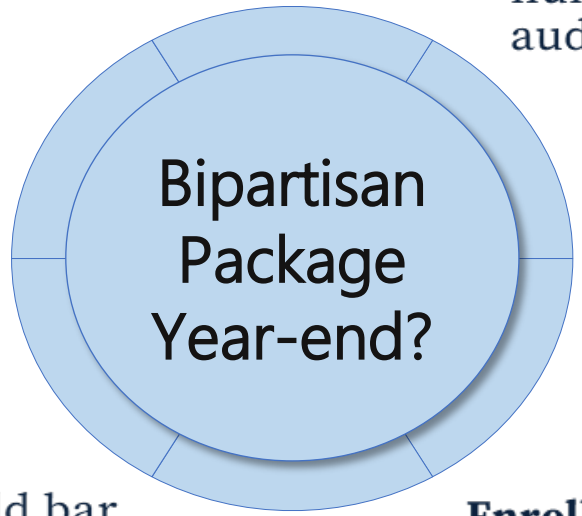
- Finance Committee
- PBM reforms Medicare/Medicaid only
- Note – de-linking, spread pricing
- No hospital transparency/site neutrality/honest billing

KEY TRANSPARENCY PROVISIONS AND CAA FIXES IN PLAY FOR YEAR-END

Study of Fiduciary Duties of PBMs in ERISA – Requires the Labor Secretary to conduct and submit a report on the impacts of redefining PBMs as a fiduciary within ERISA

Establishing PBMs as Consultants – Requires brokers and consultants to disclose direct or indirect compensation received for referrals to group health plan sponsors and individual market consumers

Make "Gag Clauses" Teethier – Would bar contracts or arrangements between employer plans and **any other entity** from including clauses that restrict a plan from auditing, reviewing or otherwise accessing de-identified claims data



Enhanced Audits – Contracts could not restrict a plan fiduciary from choosing who will conduct any audits of claims, or limit the number of claims that the plan fiduciary may audit

Prohibit Insurers/PBMs From Blocking "Consumer Decision-Support Tools" – Prohibits PBMs from preventing or restricting beneficiaries from accessing or using information through a consumer decision-support tool (which is defined)

Enrollee Data Transparency – Through application programming interfaces, requires plans to make available to an enrollee/prospective enrollee their provider historical claims, provider encounters, payment data and estimated enrollee out of pockets costs for in-network providers

EMPLOYER PLAN HEALTH POLICY ISSUES – FUTURE OUTLOOK



Health Plan Alternative Coverage



Employer Plan Mandates



Transparency



Health Care Costs

ERIC | *Shaping benefit policies before they shape you.*