

Under the Consolidated Appropriations Act, 2021 (CAA), group health plans and health insurance issuers are now required to attest annually that they are following the CAA's Gag Clause Prohibition Compliance Attestation (GCPCA).

This requirement, which is codified in Internal Revenue Code section 9824, Employee Retirement Income Security Act (ERISA) section 724, and Public Health Service (PHS) Act section 2799A-9(a)(1), prohibits group health plans and health insurance issuers offering group health insurance coverage from entering into an agreement with a health care provider, network or association of providers, third-party administrator (TPA), or other service provider offering access to a network of providers that would bar the disclosure of certain information. Self-insured group health plans are permitted to satisfy the requirement by entering into a written agreement under which the plan's service provider(s) (such as a TPA, including an issuer acting as a TPA) will attest on the plan's behalf. (However, even if a self-insured plan chooses to enter into such an agreement with the plan's service provider(s), the legal requirement to provide a timely attestation remains with the plan.)

SBMA has filed the attestation required by Title II of Division BB of the Consolidated Appropriations Act, 2021 (the CAA) (imposing a prohibition on Gag Clauses on price and quality information in provider agreements) for clients who utilized our administrative services from December 2020-2023. The first attestation satisfies the timeframe of December 27, 2020, through December 2023.

On December 28, 2023, SBMA submitted the Gag Clause Attestations for our valued clients. We are committed to maintaining this standard of excellence and will complete the next iteration by December 28, 2024.

Frequently Asked Questions

When is this Attestation due?

- All plans are required to complete an attestation by December 31, 2023, and on December 31 of each subsequent year.
- Compliance requirements are outlined [here](#).

We have terminated our contract with SBMA. Why did I receive an opt-out notification?

- Clients are still required to attest to any/all former plans for the time frame of December 27, 2020, through December 2023.
- SBMA will file the attestation for the timeframe during which we provided services.

Will I have to submit this?

- Unless a client has opted out, SBMA submitted an attestation for the timeframe of December 27, 2020, through December 2023.

What if I would like to submit this attestation myself?

- Clients may choose to opt out of SBMA's administration of this attestation.
- Clients who wish to opt out or have questions regarding the Gag Clause Attestation can email GCPCAreporting@sbmamec.com.