



Consolidated Appropriations Act 2026: Impact on Plan Sponsors

On February 3, 2026, President Trump signed CAA 2026 into law. Most notably, this law imposes new disclosure obligations on PBMs, many of which overlap with the disclosure obligations provided in the [Proposed Regulations](#). While we expect plan sponsors will generally be pleased with the additional disclosures, they are also subject to new rules, along with, potentially, increased fiduciary risk.

Most of the CAA 2026 changes become effective no earlier than 30 months after the effective date of the new law. Accordingly, for a calendar-year plan, most changes are effective January 1, 2029. However, CAA 2026 also revises the ERISA prohibited transaction exemption rules and those changes appear to be effective as of the date of the CAA 2026's passage. Additionally, we anticipate that the overall effect of these changes will be felt well before the delayed effective date, as PBMs, plan sponsors and others may feel pressure to implement business changes earlier – especially in light of the [FTC/ESI Settlement](#).

Federal regulators must issue regulations within 18 months. We should receive further guidance on many CAA 2026 rules by August 2027.

As applicable to plan sponsors, CAA 2026 makes three notable changes, which we'll summarize.

PBM Disclosures

CAA 2026 amends ERISA, the Internal Revenue Code and the Public Health Service Act to add a new section requiring PBMs to disclose to the plan sponsor a wealth of information every six months, including: a list of drugs for which a claim was filed, compensation paid by the plan for the drugs, total amount the PBM and the plan will receive from rebates, fees, alternative discounts or other remuneration from “any applicable entity” (e.g., drug manufacturer), and an explanation of possible alternatives for high-cost drugs and the PBM's rationale for the formulary placement. PBMs must also provide a document summarizing much of the information. The bulk of this disclosure overlaps with the disclosure requirements provided for in the Proposed Regulations. We anticipate the Proposed Regulations will be revised to harmonize with the CAA 2026 requirement.

Plan sponsors, in turn, will be obligated to provide the summary document and

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some of the other information to plan participants upon request. The summary document will also notify the participant of their right to request claims-level information on the prescription drug claims. Plan sponsors might want to coordinate with their vendors and verify the process for ensuring that participants receive this information when requested.

Additionally, plan sponsors must provide an annual notice to participants that the PBM will be providing this report. CAA 2026 indicates this disclosure can be provided in a plan document (e.g., the Summary Plan Description [SPD]) or an individual notice. Because SPDs are not always distributed annually, it might be prudent to include the annual disclosure with another annual mailing, such as the summary annual report or with open enrollment materials.

Finally, CAA 2026 requires that plans cannot enter into a new agreement/renewal/extension with an “applicable entity” unless the applicable entity agrees to disclose any information it may hold that the PBM will need to prepare its disclosure. The definition of “applicable entity” is very broad and seemingly captures any service provider for a plan and the obligation seemingly applies to all service providers regardless of whether they hold any data the PBM may need. Thus, most, if not all, plan agreements will need to capture this requirement as they come up for renewal.

CAA 2026 imposes severe penalties for failing to comply with the PBM disclosure requirements: the DOL has discretion to impose \$10,000 per day for failing to comply with any of the requirements and up to \$100,000 for each item of false information knowingly provided by the plan, the PBM or an applicable entity. The standard excises taxes of \$100/day/failure provided for in the Internal Revenue Code will also apply.

Full Rebate Pass Through

CAA 2026 amends ERISA prohibited transaction exemption requirements in section 408(b)(2) to add a new requirement for a contract with a PBM or other entity providing PBM services to be considered reasonable. The agreement must provide that 100 percent of rebates and similar remuneration must be passed through “to the group health plan.” Further, CAA 2026 mandates that rebates be remitted to the plan quarterly and provides for specific audit rights. Similar to the audit rights included in the Proposed Regulations, the fiduciary has the right to select the auditor and the PBM is prohibited from paying for the audit.



This requirement raises questions about what plan sponsors can do with the rebates and how those rebates must be used. For plan sponsors that utilize a trust to pay plan benefits, the rebates would likely continue to be plan assets and would simply be used to pay additional plan expenses and claims. However, how the rebates can be used is less certain for plan sponsors that do not utilize a trust and instead pay benefits from company assets. For example, can any of the rebates be retained by the plan sponsor/employer? Will the receipt of the funds result in the plan suddenly being “funded” for purposes of Form 5500 filings? Will the plan need a trust to hold these rebate amounts? Clarification of these issues in the regulations would be much appreciated.

Expanded Disclosures from Plan Service Providers

Unrelated to the new PBM rules, CAA 2026 further amends ERISA 408(b)(2) to expand the compensation disclosure requirements added to the prohibited transaction rules in CAA 2021. Previously, CAA 2021 required only entities providing broker and consulting services to disclose direct and indirect compensation related to health plans. Now, nearly all vendors are potentially subject to this disclosure.

As noted above, the CAA 2026 change to the prohibited transaction requirement seems to have gone into effect on February 3, 2026. As a result, the disclosure rule would apply to any new contract or extension or renewal of a contract entered into on or after that date.

For more information, please contact John Barlament, Stacie Kalmer or Greg Storm, or your Reinhart attorney.

This is the second article in our series, [“Changes Abound for PBMs, Plan Sponsors, Health Plan Vendors and Prescription Drug Plans”](#)

To read the rest of the series:

[Proposed Regulations Would Require Extensive Disclosures from PBMs](#)

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