

Comparison of PBM Policies on the Health DATA Act as Reported Out by the House and Senate Committees

	PATIENT Act of 2023 (EC Version)	Transparency in Coverage Act of 2023 (EW Version)	Health Care Price Transparency Act of 2023 (WM Version)	PBM Reform Act (HELP Version)	Modernizing and Ensuring PBM Accountability Act (Finance Version)	Pharmacy Benefit Manager Transparency Act (Commerce Version)
Application	No similar provision.	Applies to contracts between a group health plan and any other entity, such as a health care provider, network or association of providers, third-party administrator, or PBM.	No similar provision.	No similar provision.	No similar provision.	No similar provision.
Requirements for Contracts	No similar provision.	<p>Prohibits contracts and arrangement for services between a group health plan and such an entity unless the contract or agreement meets certain criteria that:</p> <ol style="list-style-type: none"> 1. Allows the responsible plan fiduciary the authority to conduct audits on all de-identified claims and encounter information or data to ensure that the entity adheres to the terms of the plan and relevant laws and assess the reasonableness of compensation paid by the plan to the entity. 2. Does not unreasonably restrict the number of audits allowed within a specified period of time. 3. Does not limit the number of de-identified claims and encounter information or data that the responsible plan fiduciary may access during an audit. 4. Does not limit the disclosure of pricing terms for value-based payment arrangements. 5. Does not limit the disclosure of overpayments and overpayment recovery terms. 6. Does not restrict the right of the responsible plan fiduciary to choose an auditor. 7. Does not impose any limitations or significant delays (greater than 60 days) on the responsible plan fiduciary from conducting audits on such information or data. 8. Does not charge a fee beyond reasonable direct costs to administer the process of conducting these audits. 	No similar provision.	No similar provision.	No similar provision.	No similar provision.

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Enforcement	No similar provision.	If there is an agreement between a group health plan and a health care provider, network or association of providers, third-party administrator, PBM, or other service provider that violates such requirement, the Labor Secretary may impose a penalty on such entity of up to \$10,000/day. This penalty is in addition to any other penalties that may be prescribed by the law for non-compliance.	No similar provision.	No similar provision.	No similar provision.	No similar provision.
Voiding Contractual Provisions	No similar provision.	Any provision included in an agreement or instrument is voided as against public policy if it: 1. Unreasonably delays or restricts a plan fiduciary from accessing the de-identified claims and encounter information or data. 2. Violates the requirements of this legislation.	No similar provision.	No similar provision.	No similar provision.	No similar provision.
Study on Plan Assets	No similar provision.	Within 1 year the enactment, the Labor Secretary must submit a report to the Committee on Education and the Workforce that focuses on the status of de-identified claims and encounter information or data, including: 1. Circumstances under current law where such information or data could be considered a group health plan asset. 2. An examination of whether any limitations on a plan fiduciary's ability to access such information or data violate existing legal requirements. 3. Labor Secretary's current regulatory authority to clarify whether this information or data belongs to a group health plan rather than a service provider. 4. Legislative actions that could be taken to establish that such information or data related to a plan belongs to a group health plan and is managed in the best interests of plan participants and beneficiaries.	No similar provision.	No similar provision.	No similar provision.	No similar provision.