

# Consolidated Appropriations Act, Section 201, Gag Clauses

Cigna Healthcare Position and Frequently Asked Questions (FAQs)  
Regarding Gag Clause Attestations - February 2025

This document provides information and answers to questions about the Cigna Healthcare® position specifically related to the required submission of attestations.



Section 201 of the CAA banned gag clauses in contracts between providers and health plans (includes network or association of providers, third-party administrators or other service providers offering access to a network of providers) that prevent enrollees, plan sponsors or referring providers from seeing provider-specific cost and quality data. This provision originally went into effect December 27, 2020.

On February 23, 2023, CMS issued an FAQ regarding the submission of an attestation of compliance with the Consolidated Appropriations Act, 2021 (“CAA”), Title II, Section 201’s gag clause prohibition. The attestation was first due on December 31, 2023 and is required annually thereafter.

## What is the Cigna Healthcare stance on gag clauses?

Cigna Healthcare provider contracts and client contracts meet the requirements of Section 201 of the Consolidated Appropriations Act (CAA), 2021. It is important to note that Cigna Healthcare has publicly opposed the use of “gag clauses” and does not engage in this practice.

## What is Cigna Healthcare doing in response to the gag clause attestation option?

At Cigna Healthcare, we are committed to complying with all applicable laws, rules and regulations. We understand the impact on our clients and are providing support as outlined below:

**For fully insured group business:** As an employer, and as an issuer, Cigna Healthcare will submit the Attestation on behalf of both Cigna Healthcare and our fully insured clients. Previous regulatory guidance assured that with our submission of the Attestation, the Departments will consider BOTH the fully insured plan (clients) and the issuer (Cigna Healthcare) to have satisfied the attestation submission requirement. Therefore, fully insured clients may choose to rely on our attestation.



**For self-funded/ASO business:** To assist clients, Cigna Healthcare will provide a Gag Clause Prohibition confirmation of compliance letter, to assure Cigna Healthcare clients that Cigna Healthcare is in compliance with the Gag Clause Prohibition. This letter states that Cigna Healthcare is in compliance and attests to as such to the Departments. It will be provided as part of a broader update to clients and brokers each year at the beginning of the 4th quarter.

Cigna Healthcare does not intend to attest on behalf of self-funded (ASO) plans. However, given the unique status of Level-funding, Graded-funding, Standard funding and Preferred funding arrangements with clients, Cigna Healthcare will support these clients by attesting on their behalf directly to the regulators before the annual CMS deadline in future years. As such, all other self-funded ASO clients must provide their own submission, through the portal set up by the Departments, attesting to the compliance of its ASO agreements with all providers (e.g. Cigna Healthcare and any other providers used for carve-out services).

### **Why are we not submitting attestations on behalf of our clients?**

CMS has created a web form that makes self-attestation simple to complete. Clients have the information they need from Cigna Healthcare and the data about their own entity that is necessary – including contact name, mailing address, email, phone, etc. – to easily complete the required fields in the form for their own attestations. Our own required attestation will satisfy the attestation requirements of our fully insured clients. In addition, Cigna Healthcare will attest on behalf of level-funded and graded-funded clients. However, other self-funded clients may have contracts with other entities (e.g., other service providers or administrators) that they would need to consider in their attestations. This is information that we don't have and likely are unable to access under the contracts' confidential provisions. Without ready access to this level of detail for every client, submitting on behalf of self-funded clients (other than level- and graded-funded clients) would be much more involved for us than the more straightforward option of self-reporting is for them and would require an additional written agreement.

### **What do ASO clients need to do to meet this attestation compliance requirement?**

Clients should access the attestation form on the [CMS website](#) to submit prior to the deadline of December 31 for each year. This same form will be available for their completion annually thereafter as well. Clients can also visit the [Gag Clause Prohibition Compliance Attestation](#) page from CMS that outlines the steps to ensure their compliance with this section of the regulation (webform can be accessed from the "Enter Webform Now for a GCPA" link, at the bottom of the page, with instructions in the "User Manual" link).

The website is up and functioning. Clients need to request access for the attester, and, once granted, they should be able to submit the attestation in advance of the December 31 deadline for each year.

