

# LEGAL UPDATE



## ACTION STEPS

Employers should consider taking the following steps to comply with the RxDC reporting requirement:

- Reach out to issuers, TPAs or PBMs, as applicable, to confirm they will submit the RxDC report for your health plan;
- Promptly respond to any information requests from the third party submitting the RxDC report for your health plan;
- Confirm that your written agreement with the third party submitting the RxDC report has been updated to include this reporting responsibility; and
- For self-funded health plans, monitor the third party's compliance with the RxDC reporting requirement.

## Second Prescription Drug Report Is Due by June 1, 2023

The deadline for health plans and health insurance issuers to submit their second prescription drug data collection (RxDC) report is **June 1, 2023**. This is an annual reporting requirement; plans and issuers will generally submit these reports by June 1 of each year, reporting information for the prior calendar year.

### RxDC Reporting

To comply with the RxDC reporting requirement, health plans and issuers must annually submit information to the Departments of Labor, Health and Human Services and the Treasury (Departments) about:

- Spending on prescription drugs and health care services;
- Prescription drugs that account for the most spending;
- Drugs that are prescribed most frequently;
- Prescription drug rebates from drug manufacturers; and
- Premiums and cost sharing that patients pay.

RxDC reports must be submitted through an online portal maintained by the Centers for Medicare and Medicaid Services (CMS). CMS' [RxDC website](#) includes updated reporting instructions and other reporting resources.

### Reporting Deadlines

The first RxDC report was due by Dec. 27, 2022 (covering data for 2020 and 2021); however, the Departments provided a submission grace period through **Jan. 31, 2023**.

The second RxDC report is due by **June 1, 2023**, and must include data for 2022. At this time, the Departments have not provided any extensions to this deadline.

### Health Plan Compliance

Health plans may use a third party—such as an issuer, TPA or PBM—to prepare and submit the RxDC report on their behalf. To do this, a plan must enter into a **written agreement** with the third party to address this reporting responsibility. Health plans are not prohibited from submitting RxDC reports on their own, but the Departments expect this to be rare.

If the issuer of a fully insured group health plan is required by written agreement to submit the RxDC report but fails to do so, then the issuer—not the plan—violates the reporting requirements. However, unlike fully insured plans, the legal responsibility for RxDC reporting stays with a self-funded plan even if a third party (for example, TPA or PBM) agrees to provide the report on the plan's behalf.