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Memorandum

To: Alicia Cochran

From: Kathryn Bakich

Date: December 15, 2021

Re: Warehouse Employees Local 730 Health and Welfare Fund

Alicia, attached please find a Compliance Plan to be included in materials for the Trustee meeting on December 17, 2021. The Compliance Plan details the requirements of the No Surprises Act and Transparency Rule, effective generally on January 1, 2022.

As you know, an SMM has also been prepared which amends the plan to comply with the requirements of the No Surprises Act.

As we have discussed, CIGNA has provided some information about the No Surprises Act, but there are still some issues to be resolved, particularly with respect to how out-of-network negotiations will be conducted and who will be responsible for Independent Dispute Resolution on behalf of the Fund. We expect that additional information will be forthcoming from CIGNA next week on these issues.

Additionally, there have not been proposed new contracts or fee arrangements from the Fund's service providers to address No Surprises Act or Transparency compliance. We are beginning to see some contract amendments from service providers in the industry and believe that there may be information coming requiring contract modification early next year.

I look forward to discussing this information on Friday.

cc: James Kimble
Josh Timm

Warehouse Employees Local 730 Health and Welfare Trust Fund

Compliance Plan - No Surprises Act ("NSA") and Final Transparency Rule

Plan Year (Most NSA rules apply starting January 1, 2022 for calendar year plans)	1-Jan
Are Any Plan Options Grandfathered? (Grandfathered plans are exempt from the Final Transparency Rule but not the NSA)	No
Date of Latest Update to Compliance Plan	12/15/2022

Action	Responsible Party	Effective Date	Target/Complete Date	Plan Actions
Identify Applicability				
Identify scope of applicability of Final Rule and Act to the group health plan. Retiree-only plans, excepted benefits, and individual account plans exempt. NSA requirements generally apply to plan years beginning on or after January 1, 2022 (i.e., effective January 1, 2022 for calendar year plans). However, as explained in this table, certain NSA requirements have been delayed by the enforcement agencies.	Segal, Fund Counsel, in conjunction with Vendors (Associated Administrators and Cigna) and Software vendor, basys	NSA requirements effective January 1, 2022 (based on calendar year plan year) except as otherwise noted		General Timing of Compliance. Most NSA requirements apply to plan years beginning on or after January 1, 2022 (except as noted otherwise in this chart). Because the Fund uses a calendar year plan year, the Fund will need to comply with the applicable NSA requirements starting January 1, 2022. Delayed Rules. Guidance issued on 8/20/2021 delayed the effective dates of certain rules. This table identifies each delay in the column titled "Effective Date," as applicable. Relevant Vendors. See the tab titled "List of Vendors" for a list of the plan vendors that will be impacted by or otherwise have a role in this compliance process. Segal will send information-request letters to each applicable vendor.
Monitor federal regulations and guidance throughout implementation period	Fund Counsel and Segal	Ongoing		Work with Segal and Legal Counsel to monitor ongoing developments.
Plan/SPD Amendments				
The following plan terms are being amended by the SMM prepared by counsel and submitted for Trustee approval on December 17, 2021.	Segal, Fund Counsel in conjunction with Vendors (Associated Administrators and Cigna)	January 1, 2022	SMM prepared by Counsel and reviewed by Segal and Associated Administrators to be presented for adoption on December 17, 2021.	SMM prepared by Counsel and reviewed by Segal and Associated Administrators to be presented for adoption on December 17, 2021. General Tasks. Review Plan Document/SPD to identify all changes needed to comply with requirements. Confirm that Vendors will implement (and test, as appropriate) all required plan changes by January 1, 2022. Update plan documents, Benefit Descriptions, SBCs, and participant communications for distribution to participants in accordance with deadlines.

1. If non-grandfathered, amend plan to eliminate ACA emergency room payment rules 2. Amend plan rules to cover emergency services without prior authorization 3. Amend plan rules to apply cost sharing in the same manner at participating and non-participating providers and facilities, both subject to and accumulating to the in-network deductible and out-of-pocket maximum. 4. Define: · Emergency medical condition using the prudent layperson standard · Emergency department of a hospital to include an independent freestanding emergency department. · Emergency services 5. Amend plan to address non-emergency services provided at an in-network facility by an out-of-network provider 6. Amend plan to set forth standards for payment to a non-network provider or facility 7. Modify External Review procedures to include determinations regarding emergency services and air ambulances 8. Modify plan to allow "continuing care patients" to continue care after provider contract termination as required 9. Eliminate higher cost-sharing for non-participating providers if the participant was informed that the provider was a participating provider 10. Create complaint process				SMM prepared by counsel and reviewed by Segal and Associated Administrators. The terms of the SMM will be incorporated into the SPD rewriting currently being prepared by counsel.
Participant Communications and Notices				
· Notify participants of changes to plan in a timely manner	Associated Administrators	January 1, 2022	1-Jan-2022	SMM prepared and will be mailed to participants prior to January 1, 2021 after adoption at 12/17/21 meeting.
Advance Explanation of Benefits Form	Associated Administrators and Cigna	Delayed until future rulemaking is complete.	Delayed	Delay. Effective date of advanced EOB requirement has been delayed (until future rulemaking is complete) by agency guidance issued on August 20, 2021. (Originally effective for plan years beginning on or after January 1, 2022.) Future Tasks. Require Vendors to provide explanation of new process so that communications can be sent to participants and providers. Additional tasks/requirements pending future agency guidance.
Issue new ID cards that include deductibles; out-of-pocket maximum; and telephone number and internet website address to seek consumer assistance information, such as network information	Cigna	January 1, 2022 (Regulations not expected prior to effective date)	1-Jan-22	Regulations Not Expected Before Effective Date (Good-Faith Compliance). Per agency guidance issued August 20, 2021, the agencies do not expect to issue regulations on this rule prior to its effective date. Pending future guidance, plan sponsors are expected to implement the ID card requirements using a good faith, reasonable interpretation of the law. CIGNA will provide a mock-up of an ID card. Updated cards will be printed and mailed on renewal for a change of benefit, of election, a qualifying life event, or at an individual member's request. When an ID card is requested to be mailed for a 1/1/22 effective date or later, the ID card will be updated to reflect the additional information.
Create process for resolving complaints by participants concerning the No Surprises Act	Fund Counsel and Vendors (Associated Administrators and Cigna)			Work with Fund Counsel and Vendors to develop process to respond to complaints if a participant files a complaint with HHS or DOL.
Create process to notify participants whose provider is terminated from network of right to continuation of care	Associated Administrators and Cigna	January 1, 2022	1-Jan-22	Cigna will provide list of terminated providers but Associated will need to inform participants.
Create process to verify the accuracy of the provider database and assure participant receives correct information on network providers	Associated Administrators and Cigna	January 1, 2022	1-Jan-22	Regulations Not Expected Before Effective Date (Good-Faith Compliance). Per agency guidance issued August 20, 2021, the agencies do not expect to issue regulations on this rule prior to its effective date. Pending future guidance, plan sponsors are expected to implement the provider directory requirements using a good faith, reasonable interpretation of the law. Cigna states that it currently meets or exceeds requirements within its provider directory. Cigna will be adding provider digital contact information and the surprise billing disclosure to its directory. Cigna will also update its validation/suppression procedures as required. Fund may wish to consider performance guarantees for provider directory accuracy.

Create process to offer price comparison guidance by telephone	Fund Office in conjunction with Fund Counsel and Vendors (Associated Administrators and Cigna)	Enforcement deferred to align with Transparency rule for price look-up tool. For first 500 services, Plan years beginning on or after January 1, 2023 (January 1, 2024 for remaining services)	January 1, 2023 for first 500 services	Delay. Effective date of NSA price comparison tool requirement has been delayed by agency guidance issued on August 20, 2021 to align with effective dates of separate price look-up tool under Transparency Rule. That means first 500 services in 2023 and the rest in 2024, and there will be additional regulations discussing whether the price comparison tool is even necessary and how to do the communications via telephone. (Originally effective for plan years beginning on or after January 1, 2022). Future rulemaking expected. CIGNA will be providing additional information in 2022. Follow-up needed to determine what services are available regarding real-time benefit tools.
Draft Disclosure Notice for price look-up tool (Transparency Rule)	CIGNA	Plan years beginning on or after January 1, 2023	1-Jan-23	Cigna should include the model notice on its price comparison website.
Website Review · Determine existing website capacity, technical specifications · Is website accessible for those with a disability? · Is there a place on the website to post required participant notices? · Is the plan using its own website or linking to a service provider website? · How will data transfer occur and what are the data requirements and testing schedule?	Fund Counsel and Vendors (Associated Administrators, Cigna, and Basys)	January 1, 2022		Associated Administrators maintains a fund website which can be used to host No Surprises Act and Transparency information.
Modify websites to include public disclosure of three required machine readable in-network; out-of-network; and prescription drug rate files or link to them 1. Negotiated payment rates for all covered items and services; 2. Allowed amounts and associated billed charges by out-of-network providers; 3. Pricing information for prescription drugs.	CIGNA and Associated Administrators	Enforcement deferred until July 1, 2022 for in-network rate and out-of-network allowed amount files. Enforcement delayed until final rulemaking on prescription drug negotiated rate files	1-Jul-22	Delays. Agency guidance issued August 20, 2021 delayed effective dates of in-network rates and out-of-network allowed amount files (until July 1, 2022) and prescription drug negotiated rate files (until future rulemaking is complete. Cigna will host the in-network medical rate file (MRF) at no cost on cigna.com. The Fund can link to the file from its website to the Cigna website. (The Fund would have the option to download the files, but linking would be less time-consuming.) Cigna has not addressed how the out-of-network rate file will be provided at this time. Although the prescription drug requirement has been delayed, Cigna also has not addressed the prescription drug rate file.
Modify websites to include participant price look-up tool meeting the requirements of the Health Plan Transparency Final Rule, or link to it · The seven required content elements to determine cost-sharing are: Estimated cost-sharing; Accumulated amounts; In-network negotiated rates; Out-of-Network allowed amounts; Items and services in bundled arrangements, if applicable; Any coverage prerequisites (i.e. preauthorization, concurrent review, step therapy, fail first protocols); Disclosure Notice.	CIGNA and Associated Administrators	For first 500 services, Plan years beginning on or after January 1, 2023 (January 1, 2024 for remaining services)	1-Jan-23	Cigna states that it has allocated significant resources to expand our existing cost estimator tools and is actively working toward compliance with the self-service tool requirements, effective 2023 and 2024.
Make available on the Internet website of the plan or issuer a price comparison tool meeting the requirements of the Act, that allows participant to compare cost-sharing by participating provider, geographic region	Vendors (Associated Administrators, Cigna, and Basys)	Enforcement deferred to align with Transparency rule for price look-up tool. For first 500 services, Plan years beginning on or after January 1, 2023 (January 1, 2024 for remaining services)	January 1, 2023 for first 500 services	Delay. Effective date of NSA price comparison tool requirement has been delayed by agency guidance issued on August 20, 2021 to align with effective dates of separate price look-up tool under Transparency Rule. That means first 500 services in 2023 and the rest in 2024, and there will be additional regulations discussing whether the price comparison tool is even necessary and how to do the communications via telephone. (Originally effective for plan years beginning on or after January 1, 2022). Future rulemaking expected.

Provide Notice about balance billing prohibitions on a public website, and include on each EOB.	Associated Administrators, Fund Counsel	January 1, 2022.	1-Jan-22	Regulations Not Expected Before Effective Date (Good-Faith Compliance). Per agency guidance issued August 20, 2021, the agencies do not expect to issue regulations on this rule prior to its effective date. Pending future guidance, plan sponsors are expected to implement the notice requirements using a good faith, reasonable interpretation of the law. DOL has provided model notice (which can be used to meet good-faith requirement). Model Notice. Model Notice is available and must be on website by January 1, 2022 Associated Administrators will publish the Notice on the Fund's website no later than January 1, 2022. Associated will also include the notice on the Fund's Explanation of Benefits forms (counsel has approved language).
Payment Methodology Modifications				
Determine plan's payment rates for out-of-network emergency services for 2022 and thereafter	Associated Administrators, CIGNA, basys	January 1, 2022. Determine 2019 rates in 3rd quarter 2021	Regulations were published on July 13, 2021	Associated Administrators has been working with basys to establish payment process for No Surprises Act Claims.
· Determine plan's median contracted rates for items or services furnished in 2022 – In 2022 plan must pay the median of the contracted rates recognized by the plan as the total maximum payment for the item or service on January 31, 2019, for the same or similar item or service provided by a provider in the same or similar specialty and in the geographic region in which the item or service is furnished, increased by a CPI percentage	CIGNA			Cigna will identify potential No Surprises Act claims by determining whether the services are for OON emergency services, OON services received at an INN facility, or air ambulance services. Cigna will, as part of its re-pricing services, provide the plan with a QPA for each identified potential NSA claim. The QPA will be based on the median in-network rate (for 2019 and indexed for inflation) for all CIGNA networks, based on a minimum of three contracts within a geographic region. The QPA will be included in a PWK segment in the 837 repriced claim file. Associated Administrators will apply the QPA to NSA claims and adjudicate the member cost share.
Determine what database to use for newly covered items and services for which there was no rate in 2019	CIGNA			
Establish process to verify whether participant has consented to receive services from out-of-network provider who provided services in an in-network facility; and that such consent meets the requirements of the Act; in such case, payment rules under Act do not apply	Associated Administrators, CIGNA	January 1, 2022		Need further information regarding how CIGNA will implement the Notice and Consent rule and inform Associated Administrators about whether a participant signed an out-of-network consent form
Establish process to assure that plan pays recognized amount or sends notice of denial for emergency services within 30 calendar days after the bill is transmitted by the provider	Associated Administrators	January 1, 2022		
Out-of-Network Payments and Independent Dispute Resolution (IDR)				
Prepare to engage in negotiations with Out-of-Network Providers and Facilities 1. Review current service provider that handles out-of-network claims to determine whether they can comply with Act 2. Determine who will be responsible for notifying out-of-network provider/facility of denial or initial payment 3. Determine who will conduct negotiations with provider/facility prior to IDR	Associated Administrators and Cigna	January 1, 2022	Regulations were published on October 7, 2021	CIGNA has indicated that additional information about both the negotiations process and the Independent Dispute Resolution (IDR) process will be available next week (week of December 20).
Determine who will be responsible for interacting with Independent Dispute Resolution Entity; and who will prepare the IDR payment offer · Assure that person has access to plan's median contracted rate and other necessary information to prepare offer	CIGNA and Associated Administrators	January 1, 2022		
Determine whether any state balance billing laws would apply to the plan (See Resources list)	Fund Counsel	January 1, 2022		No State Balance Billing laws apply as the plan is self-insured
Air Ambulance Services				
Determine who will be responsible for Air Ambulance out-of-network claims and review payment methodology factors listed above	Cigna and Associated Administrators	January 1, 2022		CIGNA will provide the QPA for air ambulance claims.
Monitor regulations for how group health plans must submit reporting to Labor, HHS and Treasury concerning air ambulance claims data, after the agencies publish rulemaking	Associate Administrators and Segal	January 1, 2022		Under the proposed rule published in September 2021, plan sponsors would be required to report detailed claim-specific data on air ambulance services and payments for calendar year 2022 by March 31, 2023, and for calendar year 2024 by March 31, 2024. Reports could be made by plan service providers.
Service Provider Contract Amendments				

General Review · Identify applicable service providers for each portion of the law and inventory network provider contracts · Assure that current contracts are easily accessible	Fund Counsel, in conjunction with vendors (Associated Administrators and Cigna)	January 1, 2022		Fund Counsel. Compile contracts from all affected service providers and determine what needs to be amended and which tasks need to be added. Determine whether additional fees are going to be requested. Service providers have not provided estimates of additional fees or proposed contracts. Review possible performance guarantees/fees at risk for non-compliance.
Network Provider/Preferred Provider Organization Contract Amendments: · Allow access to rates as by new laws · Establish process to transmit rate information, including testing schedule · Eliminate gag clauses that prevent the plan from providing provider-specific cost or quality information to referring providers, plan sponsors, participants · Require updated provider directories and directory maintenance	Cigna, Fund Counsel CIGNA	January 1, 2022		CIGNA will update provider directories
Third Party Administrator/Administrative Service Provider Contract Amendments: · Establish roles and liability for compliance; · Include 30-day payment and denial rules, new payment methodology · Include payment of IDR fees and costs · Including requirements for government reporting · Address website compliance · Address new ID Card requirement · Require production of Advance Explanation of Benefits; address process for distribution to participants · Require support for price comparison tool · Require maintenance of provider directories and mistake reporting · Eliminate gag clauses that prevent the plan from providing provider-specific cost or quality information to referring providers, plan sponsors, participants · Address responsibility for penalties for failure to comply or errors	Associated Administrators, Fund Counsel	January 1, 2022		
Government Reporting				
Provide annual attestation that plan is in compliance with the gag clause prohibition rule (once regulations issued)	Fund Counsel, Associated Administrators, and Cigna	12/27/2020	Early 2022 attestation to the government will be required	Timing of Compliance. Guidance issued August 20, 2021 clarified that gag clause prohibition is effective immediately as of the date that the NSA was enacted. Fund Counsel. Review existing arrangements with Associated Administrators and Cigna to determine if any gag clauses exist and need to be removed. If so, coordinate Associated Administrators and Cigna for necessary amendments to contracts for execution ASAP.
Prepare to submit prescription drug data reporting to federal government	Associated Administrators, CIGNA	12/27/2022	Complete no later than 12/27/2022	Interim Final Regulation published and applicable on December 27, 2021. The effective date for the first set of reporting is still December 27, 2021, but the Departments are deferring enforcement until December 27, 2022 to provide additional time for regulated entities to comply. For subsequent years, the deadline is June 1. This means that data for the 2020 and 2021 calendar years must be reported by December 27, 2022, and data for the 2022 calendar year must be reported by June 1, 2023. Reporting can be done by the plan or its service providers.
Report to Labor, HHS and Treasury concerning air ambulance claims data		Awaiting regulatory guidance	Reporting will be due by March 31, 2023 for 2022 data and March 31, 2024 for 2023 data	Under the proposed rule published in September 2021, plan sponsors would be required to report detailed claim-specific data on air ambulance services and payments for calendar year 2022 by March 31, 2023, and for calendar year 2024 by March 31, 2024. Reports could be made by plan service providers.
Financial Planning				
Determine impact on plan costs				
Create implementation budget				
Determine impact on existing service provider relationships				
Resources				
DOL/EBSA Transparency in Coverage Webpage https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/affordable-care-act/for-employers-and-advisers/transparency-in-coverage https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/faqs/aca-part-49.pdf				
Public Law 116-260, Division BB https://www.congress.gov/bill/116th-congress/house-bill/133/text/pl				

State Balance Billing Laws

https://www.commonwealthfund.org/publications/maps-and-interactives/2020/nov/state-balance-billing-protections