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Business Groups Withdraw Suit Challenging Health-Price Transparency Rule

U.S. Chamber of Commerce and Texas affiliate had filed to block parts of federal rule requiring insurers and employers disclose prices they pay for healthcare services and drugs



Enforcement of some provisions of the rule at issue was delayed to July 1, 2022 in a document issued by the Centers for Medicare and Medicaid Services last Friday.

The U.S. Chamber of Commerce and a Texas affiliate withdrew a suit filed to block parts of a federal rule requiring insurers and employers to disclose prices they pay for healthcare services and drugs.

The withdrawal, in a filing late Wednesday, came after the Biden administration delayed enforcement of provisions of the rule that were the focus of the suit.

The suit against the U.S. Department of Health and Human Services and other federal agencies was filed Aug. 10 in federal court in Tyler, Texas, by the U.S. Chamber and the Tyler Area Chamber of Commerce. The suit claimed provisions of the rule, which required disclosure of prices for healthcare services and drugs in machine-readable files, went beyond federal authority and could raise healthcare costs.

Enforcement of some provisions of the rule was delayed to July 1, 2022, from Jan. 1, 2022, in a document issued by the Centers for Medicare and Medicaid Services last Friday. Enforcement of a requirement to disclose drug prices was delayed indefinitely pending new rule making.

Daryl Joseffer, senior vice president at the U.S. Chamber Litigation Center, said in a statement that the Biden administration decision “was a positive and constructive response to our lawsuit.” There are still “significant issues” with the rule, he said, and “we’ll continue to monitor the developments, and that includes evaluating whether in the future the Chamber will bring a new lawsuit.”

An email sent Friday by the Tyler Area Chamber of Commerce to the U.S. Chamber, viewed by The Wall Street Journal, said it wanted to withdraw from the suit “based on feedback from community leadership.”

Rachel Means, chief executive of Employee Benefits Consulting, a firm based in Tyler that works with employers on healthcare coverage and is a member of the local Chamber, said that she had spoken to officials of the Tyler group about the suit and urged them not to participate. “I asked the Chamber, why would a self-funded employer not want transparency in healthcare pricing?” she said.

Executives of the Tyler Area Chamber of Commerce didn’t return calls seeking comment.

In the document that delayed enforcement of the rule, CMS said the changes were tied to the need to reconcile the disclosure rule, issued by the Trump administration in October 2020, with provisions of a separate law that passed later.

Much of healthcare pricing is set through confidential deals that have long kept rates under wraps, often leaving consumers in the dark about the cost of care.

Biden administration officials have said they back healthcare pricing transparency as a way of boosting competition in the industry. President Biden flagged support for healthcare pricing transparency in an executive order released in July.

CMS has proposed raising penalties on larger hospitals that don’t make their prices public under a separate transparency rule focused on hospitals, which went into effect at the start of this year.

The Chamber’s suit was part of larger pushback against the healthcare pricing-transparency requirements. The Pharmaceutical Care Management Association, which represents pharmacy-benefit managers, has filed a suit seeking to block certain drug-price disclosure requirements. The group said it is “reviewing the status of our litigation on the rule.”

Earlier, hospitals brought a similar challenge to the rule requiring them to disclose prices. In December, a federal appeals court upheld that rule.