# 2022 Employee Benefits Wrap-Up


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RATED BY Super Lawyers  Best Lawyers

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# Agenda

- End of Year and 2023 Compliance Considerations
  - Upcoming Telemedicine Changes
  - 125 COVID Amendments
- CAA Pharmacy Reporting Requirements


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# PCORI Fee Updates

- Patient-Centered Outcomes Research Institute (PCORI) fees for self-insured group health plan sponsors
  - For plan years ending 10/1/2022 through 9/30/2023 → $3.00
  - 2023 PCORI fee = $3.00 x Average Number of Covered Lives
  - Reported annually on Form 720 no later than 7/31 of subsequent calendar year

# Compliance Considerations

- Winding down of COVID-19 Outbreak Period Extensions?
  - Anticipated end of National Emergency / outbreak period extensions
- Fix to the “family glitch”
- EOY deadline to amend cafeteria plans for special changes permitted under the Consolidated Appropriations Act, 2021 (CAA)
- Gender and family planning issues in benefits
  - ACA Section 1557
  - Dobbs v. Jackson Women’s Health Organization
- Mental Health Parity – Comparative analysis of non-quantitative treatment limitations (NQTLs)

# Pre-deductible Telemedicine & HSA Transition Relief

- Congress amended IRC 223 to allow pre-deductible telemedicine benefits without affecting HSA-eligibility
- Special rule ended for plan years beginning after December 31, 2021
- Extension for April 1, 2022 through December 31, 2022
- What about January 1 – March 31, 2022?
- Full Contribution Rule
  - Requires individual to be HSA-eligible for December 2022 and remain eligible for all of 2023

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# 2023 ACA Reporting Deadlines

| To IRS | To Employees |
| --- | --- |
| **Paper Filers**<br>**February 28, 2023** | **March 2, 2023** |
| **Electronic Filers**<br>**March 31, 2023** | |

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# CAA Pharmacy Reporting

- Which plans/benefits are subject to the pharmacy reporting requirements?
  - Group health plans (including grandfathered plans)
- Which group health plans are <u>not</u> subject to the pharmacy reporting requirements?
  - Excepted benefits (*e.g.*, limited-scope dental or vision offered under separate policies, many EAPs, and fixed indemnity plans)
  - Account-based plans (*e.g.*, HRAs and many gap/bridge plans)
  - Short-term limited-duration insurance (STLDI)
  - Retiree-only plans
- What are the deadlines?
  - 2020 and 2021 calendar year data is due by **12/27/22**. Thereafter, annual reporting is due by **June 1 of the following year** (*e.g.*, 2022 data is due by 6/1/23).

# Plan Lists and Data Files

| Subject | Plan Lists | Data Files |
|---|---|---|
| **File Names** | P stands for Plan<br>• P1 Individual and student market plan list<br>• P2 Group health plan list<br>• P3 FEHB plan list | D stands for Data<br>• D1 Premium and Life-Years<br>• D2 Spending by Category<br>• D3 Top 50 Most Frequent Brand Drugs<br>• D4 Top 50 Most Costly Drugs<br>• D5 Top 50 Drugs by Spending Increase<br>• D6 Rx Totals<br>• D7 Rx Rebates by Therapeutic Class<br>• D8 Rx Rebates for the Top 25 Drugs |
| **Purpose** | The plan lists identify the plans in a submission. The plan lists also collect plan-level information required by statute, such as the beginning and end dates of the plan year, the number of members, and the states in which the plan or coverage is offered. | The data files collect premium and spending information at an aggregate level. |
| **Requirement** | • P1 is required for plans in the individual or student market<br>• P2 is required for employer-based health plans that are not FEHB plans<br>• P3 is required for FEHB plans | All 8 data files are required. |

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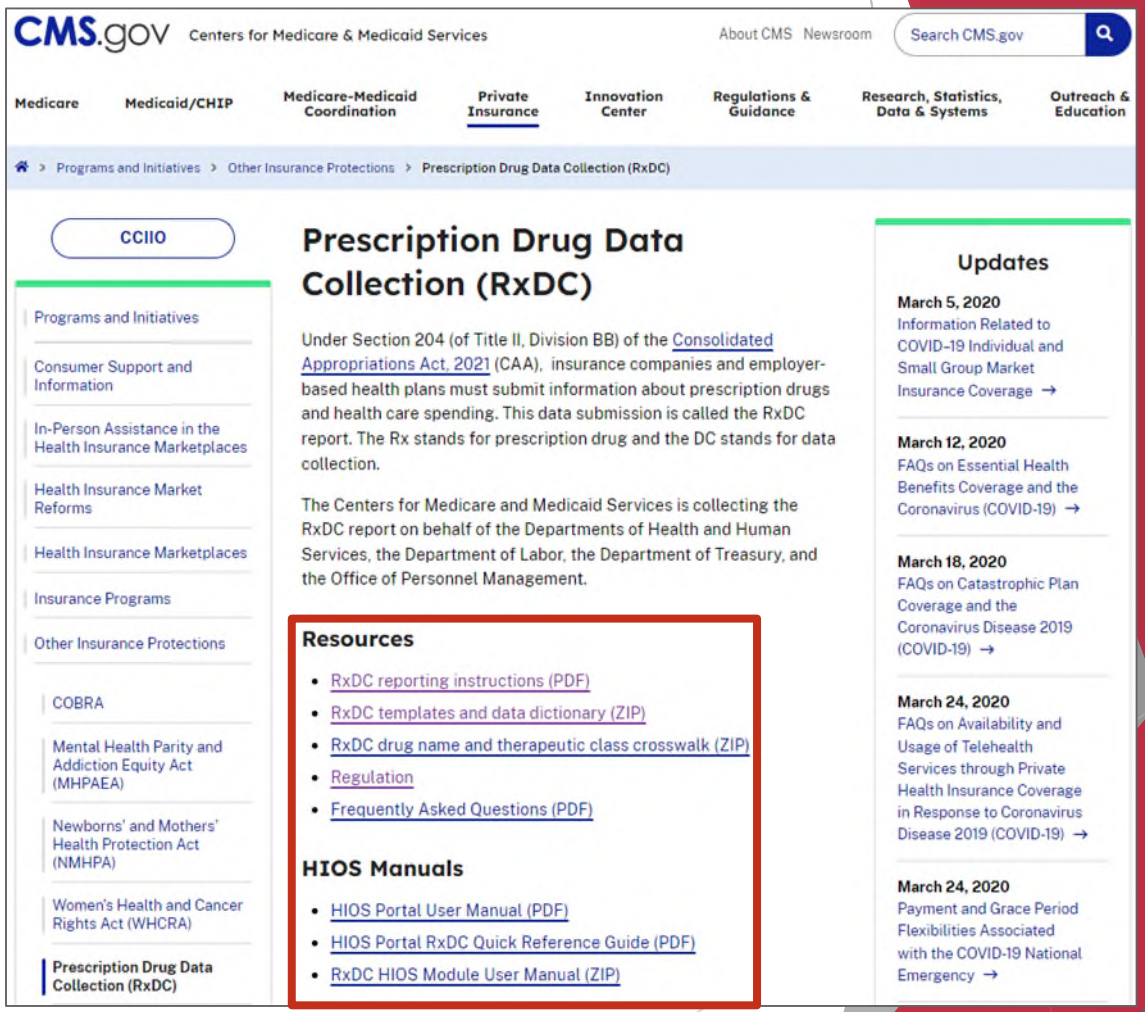
# CMS RxDC Website

- The CMS.gov Prescription Drug Data Collection (RxDC) website includes reporting instructions, data file templates, HIOS user manual, and other important and helpful information.
- Filers must have a Health Insurance Oversight System (HIOS) account through the CMS Enterprise Portal.

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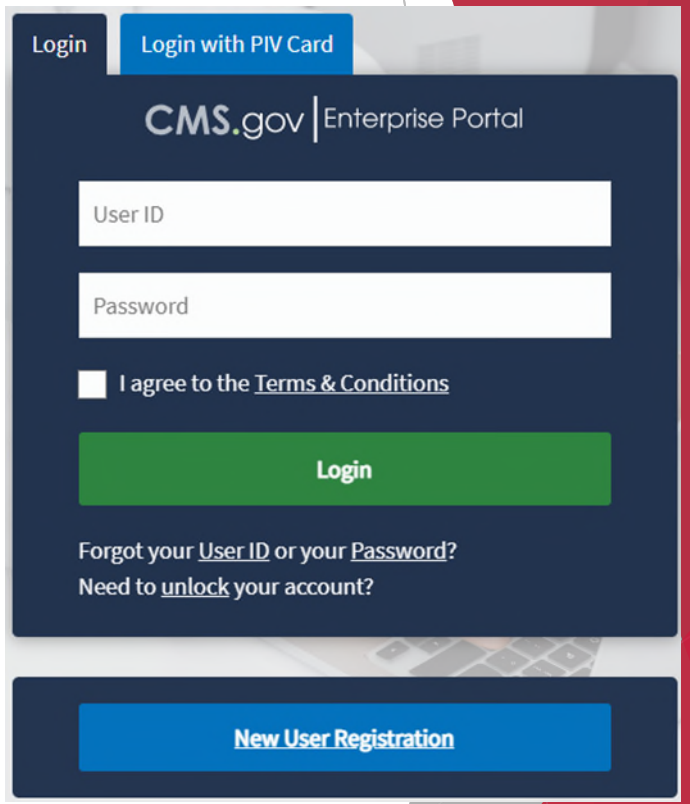
# HIOS Submission Process

- Submit Data Files through the RxDC module in the Health Insurance Oversight System (HIOS). To log in to HIOS, go to the CMS Enterprise Portal.
- If you are submitting the Data Files, you must have a HIOS account.
  - It can take up to two weeks to create your accounts. Don't wait until the last minute!
- Instructions to create HIOS accounts are in the HIOS Portal User Manual. The instructions for using the RxDC module are in the RxDC HIOS User Manual.
  - CMS Enterprise Portal Quick Reference Guide
- Select "New User Registration"
  - Application = HIOS

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# HIOS Submission Process

- New users must complete the Remote Identity Proofing (RIDP) process and Multi-Factor Authentication (MFA).
- Each submitting organization will be required to have at least two individuals with active HIOS accounts.
  - You must have two “Organization Role Approvers” (ORAs). On the “Request a Role” page, both users can register as ORAs - one as the “Primary ORA” and the other as the “Backup ORA.”
  - One user must be the “Company Administrator.”
  - One user must be the “RxDC Submitter.”
    - When requesting the roles of ORA or Company Administrator, select “HIOS Portal” as the module.
    - When requesting the role of RxDC Submitter, select “Prescription Drug Data Collection (RxDC)” as the module.

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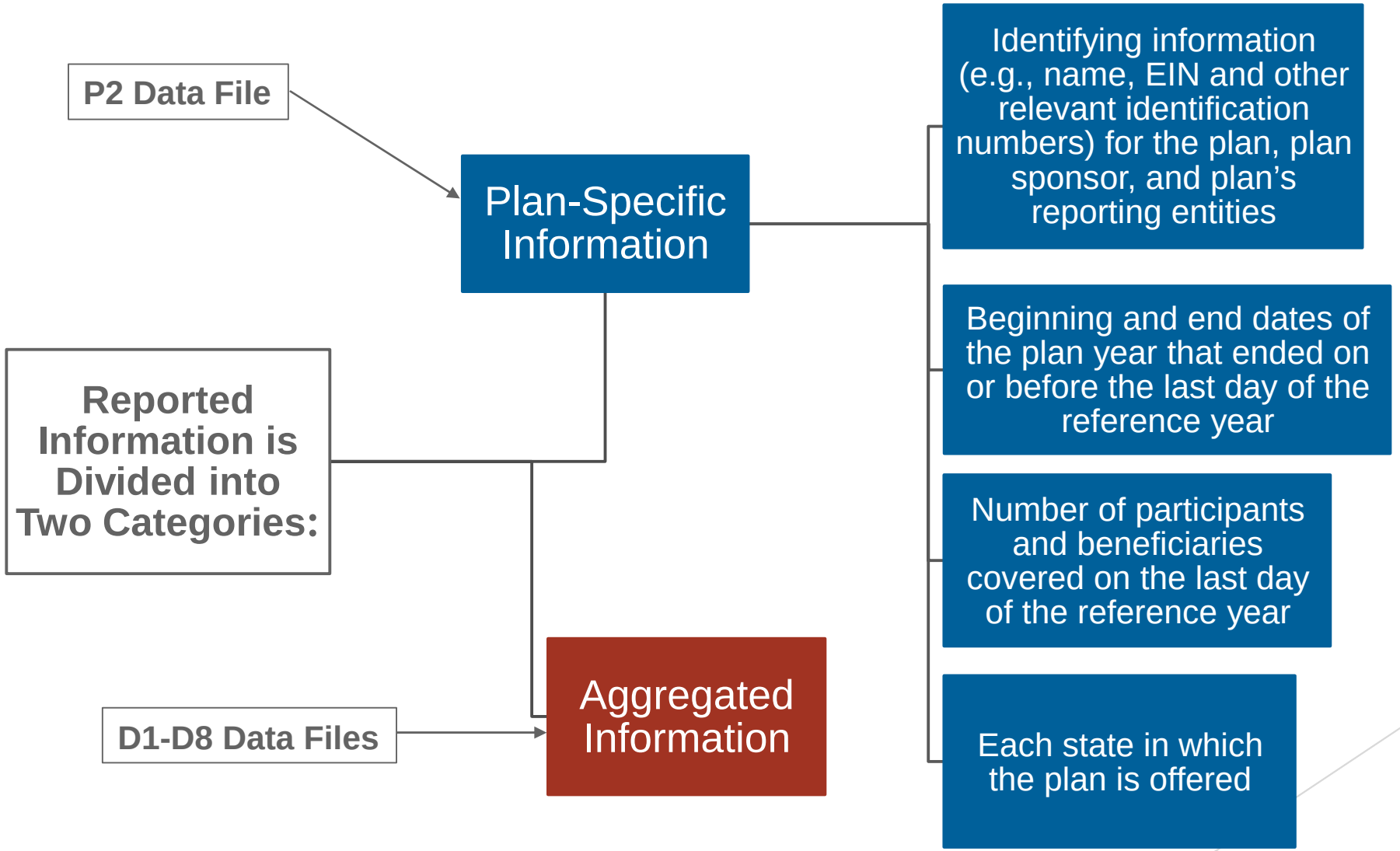
# Plan-Specific vs. Aggregated Information



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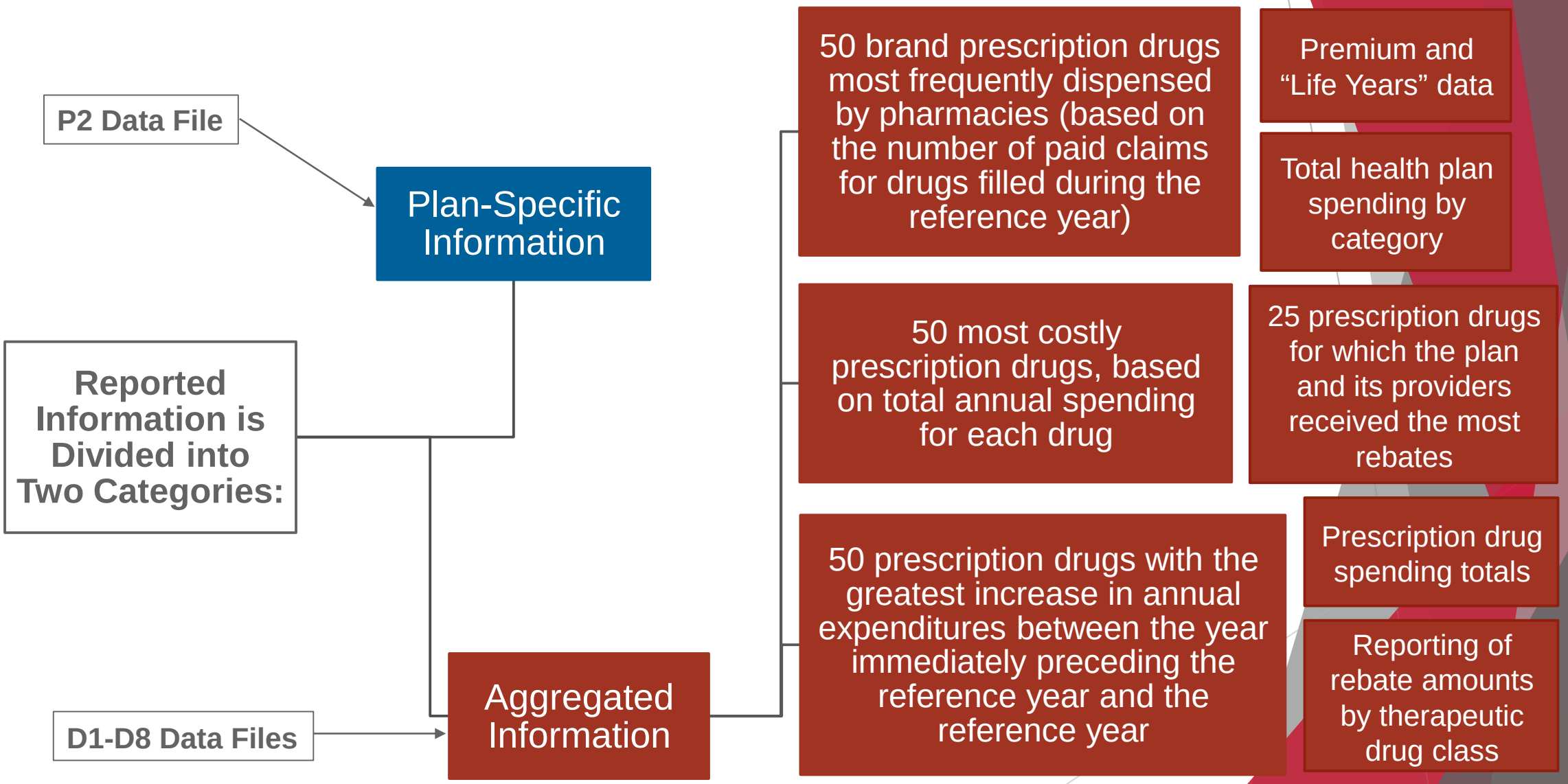

# P2 Data File (Employer-Based Group Health Plans)

| Group Health Plan Name | Group Health Plan Number | HIOS Plan ID | Form 5500 Plan Number | States in which the plan is offered | Market Segment | Plan Year Beginning Date | Plan Year End Date | Members as of 12/31 of the Reference Year |
|---|---|---|---|---|---|---|---|---|
| XYZ Health Plan | 501 | | 501 | AL; GA | SF large employer plans | 01/01/2020 | 12/31/2020 | 227 |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

| Plan Sponsor Name | Plan Sponsor EIN | Issuer Name | Issuer EIN | TPA Name | TPA EIN | PBM Name | PBM EIN |
|---|---|---|---|---|---|---|---|
| XYZ, LLC | 12-3456789 | | | BCBS of AL | 98-7654321 | RxBenefits | 11-2233445 |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |

| Included in D1 Premium and Life Years? (1= Yes; 0 = No) | Included in D2 Spending by Category? (1= Yes; 0 = No) | Included in D3 Top 50 Most Frequent Brand Drugs? (1= Yes; 0 = No) | Included in D4 Top 50 Most Costly Drugs? (1= Yes; 0 = No) | Included in D5 Top 50 Drugs by Spending Increase? (1= Yes; 0 = No) | Included in D6 Rx Totals? (1= Yes; 0 = No) | Included in D7 Rx Rebates by Therapeutic Class? (1= Yes; 0 = No) | Included in D8 Rx Rebates for the Top 25 Drugs? (1= Yes; 0 = No) |
|---|---|---|---|---|---|---|---|
| 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 |
| | | | | | | | |
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# What Info May TPAs Require from Employers/Plans?

## D1 Data File (Premium and Life Years)

| Issuer or TPA Name | Issuer or TPA EIN | State | Market Segment | Average Monthly Premium Paid by Members | Average Monthly Premium Paid by Employers | Life Years | Earned Premium | Premium Equivalents | ASO/TPA Fees Paid (included in the Premium Equivalents field) | Stop Loss Premium Paid (included in the Premium Equivalents field) |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | |
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**Life Years (and Member Months)**:

To calculate Member Months:

1. Count the number of covered lives on a given day of each month of the reference year.
2. Add the number of members from Step 1 to calculate total member months for the reference year.

To calculate Life Years:

1. Divide the Member Months by 12.
2. Round the resulting number to the 8th decimal point.

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|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | |
| | | | | | | | | | | |
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**Average Monthly Premium Paid by Member** = Total Premium Equivalents paid by members for the year / Total member months

**Average Monthly Premium Paid by Employers** = Total Premium Equivalents paid by employers for the year / Total member months

**Premium Equivalents** = Total cost of providing coverage, including claims costs, administrative costs, Administrative Services Only (ASO) and other TPA fees, and stop-loss premiums. An employer with a self-funded plan may use, as the total cost of providing and maintaining coverage, the same costs that are taken into account for purposes of calculating COBRA premiums (minus the 2% administration charge, if applicable).

*Non-enforcement policy for the 2020 and 2021 calendar years only. If you have the info, you must report it; however, if you cannot obtain the info and, thus, do not report it, the Departments will not take enforcement action.*

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# D2 Data File (Spending by Category)

| Issuer or TPA Name | Issuer or TPA EIN | State | Market Segment | Spending Category | Total Spending | Total Cost Sharing | Amounts Not Applied to Deductible and/or Out-of-Pocket Maximum |
|---|---|---|---|---|---|---|---|
| BCBS of AL | 12-3456789 | AL | SF large employer plans | Hospital | | | |
| BCBS of AL | 12-3456789 | AL | SF large employer plans | Primary care | | | |
| BCBS of AL | 12-3456789 | AL | SF large employer plans | Specialty care | | | |
| BCBS of AL | 12-3456789 | AL | SF large employer plans | Other medical costs and services | | | |
| BCBS of AL | 12-3456789 | AL | SF large employer plans | Known medical benefit drugs | | [Leave blank] | [Leave blank] |
| BCBS of AL | 12-3456789 | AL | SF large employer plans | Estimated medical benefit drugs | | [Leave blank] | [Leave blank] |

**See pages 23-29 of the CMS Prescription Drug Data Collection (RxDC) Reporting Instructions for detailed instructions on what to include and exclude in the final three columns of the D2 Data File.**

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# D3-D8 Data Files

| Issuer or TPA Name | Issuer or TPA EIN | State | Market Segment | Drug Name | Drug Code | Frequency Rank | Number of Paid Claims | Number of Members with a Paid Claim | Number of Dosage Units | Total Spending | Total Cost Sharing | Manufacturer Cost-Sharing Assistance |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | | |
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- **The first four columns will be the same in Data Files D3-D8.**
- ***Remember*: Reporting entities aggregate based on the main TPA, state, and market segment.**

# Narrative Responses

- Must be submitted in PDF or DOC/DOCX file formats.
- Only part of the reporting where multiple files could be submitted for the same plan, and multiple reporting entities could upload different narrative response files (covering different topics) for the same plan.
- Narrative responses must address the following topics:
  - Employer size for self-funded plans
  - Net payments from federal or state reinsurance or cost-sharing reduction programs
  - Drugs missing from the CMS crosswalk
  - Medical benefit drugs (*i.e.*, drugs covered under hospital / medical benefits)
  - Drug rebate descriptions
  - Drug rebate allocation methods
  - Impact of drug rebates on plan premiums and OOP costs
- Departments have not provided templates.

# Selected Limits for Health and Welfare Plans

| | 2020 | 2021 | 2022 |
|---|---|---|---|
| Annual Cost Sharing Limit (self-only coverage) | $8,150 | $8,550 | $8,700 |
| Annual Cost Sharing Limit (other than self-only) | $16,300 | $17,100 | $17,400 |
| HDHP Out-of-Pocket Maximum (self-only coverage) | $6,900 | $7,000 | $7,050 |
| HDHP Out-of-Pocket Maximum (family coverage) | $13,800 | $14,000 | $14,100 |
| HDHP Minimum Deductible (self-only) | $1,400 | $1,400 | $1,400 |
| HDHP Minimum Deductible (family) | $2,800 | $2,800 | $2,800 |
| Maximum Annual HSA Contributions (self-only) | $3,550 | $3,600 | $3,650 |
| Maximum Annual HSA Contributions (family) | $7,100 | $7,200 | $7,300 |
| Maximum HSA Catch-Up Contribution | $1,000 | $1,000 | $1,000 |
| Health FSA Maximum | $2,750 | $2,750 | $2,850 |
| Health FSA Rollover Maximum | $550 | $550 | $570 |
| Employer Mandate Penalty A (Fail to Offer) | $2,570 per FTE | $2,700 per FTE | $2,750 per FTE |
| Employer Mandate Penalty B (Unaffordable) | $3,860 per EE | $4,060 per EE | $4,120 per EE |
| 414(q) Highly Compensated Employee Threshold | $130,000 (for 2021 determinations) | $130,000 (for 2022 determinations) | $135,000 (for 2023 determinations) |

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