



**TO: Our Valued Clients**  
**FROM: Health Plans, Inc.**  
**DATE: December 7, 2023**  
**RE: Compliance eBlast: Gag Clause Prohibition Compliance Attestation**

Health Plans, Inc. (HPI) is issuing this Compliance eBlast to provide clients with information we have been able to obtain from our primary network partners and pharmacy benefit managers regarding their confirmation of compliance with the Gag Clause Requirement of the 2021 Consolidated Appropriations Act (“CAA”) to help assist you in completing and submitting your Gag Clause Prohibition Compliance Attestation (“GCPCA” or “Attestation”). Please see the below and referenced attachments. Please note that not all primary network partners and pharmacy benefit managers are providing formal statements regarding this submission.

As a reminder from our 10/12/2023 eBlast concerning the Attestation ([here](#)), HPI cannot attest on behalf of our self-funded clients. HPI also provided a formal statement ([here](#)) to our clients on 10/19/2023 stating that HPI’s administrative services agreement with our clients meets the Gag Clause Requirement.

**Point32Health/UnitedHealthcare:** The attached letter confirms that the Point32Health provider network contracts, including those held with United Health Care, comply with the Gag Clause Prohibition.

**PHCS / MultiPlan:** The attached letter confirms that Multiplan provider network contracts comply with the Gag Clause Prohibition.

**Employers Health Network:** The attached letter confirms that EHN provider network contracts comply with the Gag Clause Prohibition.

**First Health:** First Health has advised that their Wholesale Compliance team will privately outreach with clients.

**Cigna:** Please see Cigna’s information posted to their website [https://file-us.clickdimensions.com/tfabenefitscom-af2jj/files/cigna\\_caagagclausefaqsforclientsandproducers.pdf?m=7/5/2023%204:12:28%20PM](https://file-us.clickdimensions.com/tfabenefitscom-af2jj/files/cigna_caagagclausefaqsforclientsandproducers.pdf?m=7/5/2023%204:12:28%20PM).

**CVS/Caremark:** Caremark has advised that they will privately outreach with clients to provide the following statement: *Since December 27, 2020, CVS Caremark has not entered into any agreements with health care providers, networks or associations of providers, third-party administrators or other service providers offering access to a network of providers containing language prohibited by 26 USC § 9824, 29 USC § 1185m or 42 USC § 300gg-119.*

**For additional assistance, please contact your HPI Account Service Team.**

Regards,

**Andrew H. A. Meggison**

Director, Regulatory Affairs

**HealthPlansInc.com**

1500 West Park Drive, Suite 330

Westborough, MA 01581

**The information contained in this message is based on our current understanding of recent regulatory developments which may affect group benefit plans. It should not be construed as specific legal advice or legal opinion. The contents are for general informational purposes only and are not a substitute for the advice of legal counsel.**

*Under a self-insured arrangement, the self-insured plan is required to comply with Section 201, Increasing Transparency by Removing Gag Clauses, of the 2021 Consolidated Appropriations Act (“Gag Clause Prohibition”), including the attestation requirements under those rules. The purpose of this letter is to confirm that the Point32Health, Inc.<sup>1</sup> provider network contracts applicable to the health plans subject to these requirements comply with the Gag Clause Prohibition. Additionally, Point32Health, Inc. received written confirmation of compliance with the Gag Clause Prohibition from its external vendor partners that provide network access to members enrolled in health plans subject to these requirements that are insured and/or administered by any applicable Point32Health, Inc. company.*

If you have any question related to this notification, please contact your Point32Health, Inc. account executive.



*Patrick D. Cahill*  
**Patrick D. Cahill**  
**President, Commercial Markets**  
**Point32Health, Inc.**

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<sup>1</sup> For purposes of this letter, the Point32Health, Inc. companies that apply are those Tufts Health Plan and Harvard Pilgrim Care, Inc. family of companies that insure and/or administer coverage under group health and individual plans subject to the Gag Clause Prohibition.



## 2023 Gag Clause Prohibition Compliance Attestation

I attest that, **MultiPlan, Inc., on behalf of itself and its subsidiaries** ("Network") will not enter into an agreement, and has not, subsequent to December 27, 2020, entered into an agreement with a health care provider, network or association of providers, or other service provider offering access to a network of providers that would directly or indirectly restrict Client from:

1. Providing provider-specific cost or quality of care information or data, through a consumer engagement tool or any other means, to referring providers, the plan sponsor, participants, beneficiaries, or enrollees, or individuals eligible to become participants, beneficiaries, or enrollees of the plan or coverage;
2. Electronically accessing de-identified claims and encounter information or data for each participant, beneficiary, or enrollee in the plan or coverage, upon request and consistent with the privacy regulations promulgated pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the amendments made by the Genetic Information Nondiscrimination Act of 2008 (GINA), and the Americans with Disabilities Act of 1990 (ADA), including, on a per claim basis:
  - a. Financial information, such as the allowed amount, or any other claim-related financial obligations included in the provider contract.
  - b. Provider information, including name and clinical designation.
  - c. Service codes; or
  - d. Any other data element included in claim or encounter transactions; or
3. Sharing information or data described in items (1) or (2), or directing that such data be shared, with a business associate as defined in section 160.103 of title 45, Code of Federal Regulations (or successor regulations), consistent with the privacy regulations promulgated pursuant to section 264(c) of HIPAA, the amendments made by GINA, and the ADA.

I am duly authorized to provide this attestation on behalf of Network, and represent and warrant that my statements contained in this Attestation are accurate and complete.

**MultiPlan, Inc., on behalf of itself and its subsidiaries**

By:   
Dale White  
President & CEO

November 27, 2023

**Employers Health Network (EHN) Notice Regarding the Gag Clause Requirement of the 2021 Consolidated Appropriations Act (CAA)**

The Administrative Services Agreement by and between Employers Health Network (EHN), your health plan network, and your company meets the Gag Clause Requirement of the 2021 Consolidated Appropriations Act (“CAA”) and does not contain any Gag Clause Prohibition as outlined in the CAA. In addition, Employers Health Network provider contracts meet the Gag Clause Requirement of the CAA and do not contain any Gag Clause Prohibition as outlined in the CAA.

The Gag Clause Prohibition, which is an integral part of healthcare laws and regulations, mandates that no individual or entity, including networks, may impose "gag clauses" that inhibit or restrict the free exchange of information between healthcare providers and patients. These clauses have the potential to undermine transparency and obstruct open communication regarding healthcare choices and costs, ultimately limiting the patient's ability to make informed decisions about their care.

As a network, EHN:

- Does not engage in any practices that prevent or discourage healthcare providers from discussing all relevant treatment options, including costs, with their patients.
- Does not include "gag clauses" in our Administrative Services Agreements with our clients or in our contracts with providers.
- Encourages and supports transparent and open communication between healthcare providers and patients to facilitate informed healthcare decisions.