

Indiana Law-to-Action Guide

Anticompetitive Contract Clauses



This Indiana Law-to-Action Series is designed to help employers understand how to leverage new Indiana legislation intended to drive a more transparent, fair, and competitive healthcare market. Below is a plain-English summary of what the laws do and practical steps to take when reviewing health plan contracts for anticompetitive provisions that limit transparency, restrict competition, or interfere with fiduciary oversight.

This document is not legal advice and does not replace plan-specific legal or fiduciary review. It is a high-level, action-oriented guide intended to help employers understand how Indiana law supports employer control over health plan contracting, what provisions to look for in agreements with third-party administrators (“TPAs”), pharmacy benefit managers (“PBMs”), providers, and other service providers, and how to use these new laws as support when seeking to remove or challenge restrictive contract terms.

Summary:

Indiana law now reinforces employers’ authority to challenge contract provisions that limit access to data, restrict steering or tiering, block carve-outs, conceal compensation, or otherwise interfere with employer oversight of the health plan.

Several recently passed Indiana laws also strengthen an employer’s ability to access information, evaluate vendor performance, and push back on provisions that prevent the plan sponsor from acting in the best interest of the plan and the workers and families it covers.

What the laws do

Several new Indiana laws supplement the tools provided to employers under the Consolidated Appropriations Act (“CAA”) 2021 and CAA 2026 by enhancing Indiana employers’ ability to push back on restrictive contract terms, improving access to claims data, strengthening oversight of TPAs and PBMs, and creating flexibility to pursue healthcare purchasing strategies that lower costs and increase value, including:

- [Indiana HEA 1003](#) (2005) prohibits contract terms that limit an employer’s ability to use tiered networks, steer members to lower-cost providers, or selectively contract with facilities. It also prevents TPAs and PBMs from withholding claims data by claiming the information is a trade secret. The law also incorporates the federal Hospital Price Transparency rule into Indiana law.
- [Indiana HEA 1004](#) (2025) requires requested claims data to be provided within 15 business days and requires brokers and consultants to disclose compensation. It overcomes anticompetitive contracting provisions, such as gag clauses, and anticompetitive behaviors, such as refusing to disclose compensation or share data.
- [Indiana HEA 1259](#) (2024) makes clear that employers own their claims data and that contracts cannot override or transfer away those rights. The law also expands employer audit rights and prohibits vendors from using contract terms to block or limit those audits.
- [Indiana SEA 140](#) (2025) requires PBMs to provide convenient access to non-mail-order pharmacies within a reasonable distance of plan members. It also prohibits PBMs from requiring members to use only affiliated pharmacies. Also prohibits retroactive denial or reducing pharmacy reimbursement unless the claim was fraudulent or the pharmacy was overpaid.
- [Indiana SEA 3](#) (2025) establishes fiduciary duties owed by TPAs and PBMs to plan sponsors when acting on their behalf.

Why it matters to employers

Anticompetitive contract provisions and behaviors are one of the main reasons employers have struggled to operate as effective healthcare purchasers.

Historically, these provisions have limited employers' ability to:

- Understand how vendors are paid
- Steer patients to lower-cost options
- Tier networks in financially advantageous ways
- Carve out services or drugs in favor of more cost-effective arrangements
- Access and review claims data

Indiana law addresses some of these issues, but employers still face limitations stemming from ERISA preemption, existing contracts, and unresolved restrictive practices. Still, these laws give employers stronger tools to challenge certain contract provisions and exercise greater oversight of their health plans.

Action steps: What you should do now

STEP 01 NEGOTIATE TPA CONTRACTS THAT PRESERVE EMPLOYER FLEXIBILITY

Review new and renewal TPA contracts to ensure they allow:

- Tiering and steering strategies
- Direct contracting arrangements
- Carve-outs for services or drugs

Indiana law may allow employers to challenge certain restrictive contract terms that previously limited their flexibility.

STEP 03 USE PRICE TRANSPARENCY DATA TO SUPPORT PURCHASING DECISIONS

Hospital price transparency data can help employers evaluate pricing differences and identify opportunities for better value.

Use available pricing data to support:

- Tiering and steering decisions
- Direct contracting evaluations
- Vendor negotiations
- Comparisons across providers and facilities

TIP: Use [Sage Transparency](#) to benchmark hospital pricing.

STEP 02 ALIGN PBM AGREEMENTS WITH SEA 140

Review PBM agreements to ensure they comply with SEA 140 and evolving federal requirements.

Review agreements for:

- Affiliate steering provisions
- Specialty pharmacy restrictions
- Restrictions on lowest-cost pharmacy purchasing
- Compliance with CAA 2026 and DOL disclosure requirements

STEP 04 TAKE ACTION AND DOCUMENT THE PROCESS

Employers should address identified issues, monitor whether changes are warranted, and document:

- Contract reviews
- Vendor responses
- Data requests and audit findings
- Fiduciary discussions and decisions
- Follow-up actions and next steps

Review contracts and vendor arrangements regularly, including during renewals and RFP processes.

THREE KEY ACTION STEPS FOR FIDUCIARIES:

Review contracts for restrictive provisions.

Preserve flexibility for tiering, steering, carve-outs, and direct contracting.

Use data and audit rights to evaluate vendor behavior and document decisions.

If contracts limit employers' ability to access data, steer care, or evaluate alternatives, they cannot function as effective healthcare purchasers.