



COVID19 for health plans

Following the passage of House Bill 6201 (the "Coronavirus Act"), group health plans are required to cover COVID19 *testing* without imposing any cost-sharing (such as deductibles, copayments, and coinsurance), or prior authorization or other medical management requirements. Testing includes office visits, urgent care, emergency room, and any supplies or services related to the administration of the test. This also includes telehealth visits.

This coverage mandate does not require group health plans to cover *treatment* of COVID19 at no cost-sharing. Exact coverage details for COVID19 treatment, including any cost-sharing amounts, will differ based on plan documents.

The Act also includes two types of paid leave: Emergency Paid Sick Leave and Emergency FMLA Expansion, which both apply to employers with fewer than 500 employees.

Emergency Paid Sick Leave requires 80 hours of paid sick leave. Leave would be available to workers who:

- are or may be sick with COVID19;
- have to care for a family member with COVID19; or
- have a child whose school or child care facility is closed due to COVID19.

Emergency FMLA Expansion requires partially paid leave under the Family and Medical Leave Act when an employee is unable to work (or telecommute) due to a school or child care closure as a result of COVID19. This benefit would be available for individuals who have worked for the employer for at least 30 days. Smaller employers may be exempt from specific provisions of the Act, under certain conditions.

This Act is effective as of April 2, 2020 and sunsets on December 31, 2020.

Frequently Asked Questions

Should a self-funded health plan amend their plan document to reflect the changes required by the Coronavirus Act?

At present, we do not believe it is necessary to amend your plan document to reflect these changes since the Act sunsets on December 31, 2020. You should instruct your Claims Administrator to adjust their claims payment system to process charges for testing with no cost-sharing.

Does the Coronavirus Act mean a health plan has to cover testing at 100% of billed charges?

No. Nothing in the Act requires "free" testing. Charges for testing should still be processed under the terms of the governing plan document, including any PPO network, maximum allowable charge, or Medicare rate. The claims simply are not subject to traditional cost-sharing including copayment, coinsurance, and deductible limitations.

How does the Coronavirus Act impact a high-deductible health plan with respect to first dollar coverage?

The IRS has released Notice 2020-15 which states that a health plan that otherwise satisfies the requirements of a HDHP will not fail to be an HDHP merely because the health plan provides benefits associated with testing for COVID19 with no cost-sharing. Therefore, an individual covered by a HDHP will not be disqualified from being eligible for tax-favored contributions to his or her health savings account.

If an employee falls below the required number of hours to be eligible for health coverage due to COVID19, does he or she lose coverage?

Please take time to familiarize yourself with the eligibility language in your plan document. Most, but not all, health plans contain provisions regarding an authorized leave of absence. Typically, these provisions allow for the continuation of health coverage when an employee is on an authorized leave of absence from the employer. Should an employee experience a reduction in work hours (but not be on an authorized leave), an employer should ensure that the employee's hours do not fall below the number hours required to remain eligible under the plan. If there are concerns, please seek the appropriate guidance and you may need to consider an amendment to reflect new eligibility criteria through at least the end of 2020. It is also encouraged that you have a discussion with your stop loss carrier to ensure they are in agreement with your intended approach.

Does an employer have to continue health coverage for an employee out on Emergency FMLA?

Although the Coronavirus Act does not specifically address this issue, legal scholars agree that an employee who is out on Emergency FMLA due to COVID19 should be treated like any other employee on FMLA. Under FMLA, an employer is required to continue an employee's health coverage while the employee is on this job-protected leave, so long as premiums are paid.

For those employers (under 50 employees) who were not previously subject to FMLA, they are now subject to FMLA (if they have fewer than 500 employees) for this limited purpose.

Should a health plan allow participants to refill their prescriptions early due to COVID19?

In response to COVID19, the American Pharmacists Association has recommended that health plans waive restrictions with respect to early refills. We recommend that health plans allow at least a three month supply of all medication, remove burdensome prior authorizations, and promote any home delivery that may be available. Plans should reach out to their Pharmacy Benefits Manager for further discussion.

In these unprecedented times, guidance is continuously changing and evolving. Please contact Fiduciary Risk Management (FRM) for the most up-to-date information that may impact you and your health plan.