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CARES Act Expands Rules Related to Cost-Free Coverage of COVID-19 Testing

On March 27, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was passed by Congress and signed by President Donald Trump. The CARES Act modifies and expands the provisions of the Families First Coronavirus Response Act (the FFCRA) requiring employer-sponsored group health plans (both fully insured and self-funded) to provide cost-free coverage of COVID-19 testing and related items and services. (We summarized the applicable provisions under the FFCRA in an earlier alert.)

Expansion of Coverage for COVID-19 Testing

The FFCRA introduced the requirement that group health plans must provide coverage for Food and Drug Administration-(FDA) approved COVID-19 testing without imposing any cost sharing (including deductibles, copayments and coinsurance). The CARES Act expands the definition of covered tests to include any test:

- approved by the FDA;
- for which the developer has requested (or will request) emergency use authorization from the FDA;
- developed in and authorized by a state that has notified the secretary of health and human services (HHS) that it intends to review tests intended to diagnose COVID-19; and
- the secretary of HHS determines to be appropriate.

Reimbursement Rates for COVID-19 Testing and Related Services

The CARES Act sets forth rules for reimbursing health care providers for COVID-19 testing and related services. If the plan had a negotiated rate with the provider before the public health emergency, that rate will apply during the emergency period. On the other hand, if the plan and provider did not have a negotiated rate, the plan must reimburse the provider for the cash price listed by the provider on its website (unless the plan and provider negotiate a lower rate). The CARES Act includes a corresponding requirement for a provider of COVID-19 testing to publicize the cash price of such testing on its website.

Coverage of COVID-19 Vaccines and Preventive Services

The CARES Act requires group health plans to provide cost-free coverage of any "qualifying coronavirus preventive service," which is defined as including any item, service or immunization intended to prevent or mitigate COVID-19 and that is either (i) an evidence-based item or service with an "A" or "B" rating in the current recommendations of the United States Preventive Services Task Force or (ii) an immunization with a recommendation from the Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices. This new requirement applies 15 business days after the date on which a recommendation is made with respect to the qualifying coronavirus preventive service.

For more Day Pitney alerts and articles related to the impact of COVID-19, as well as information from other reliable sources, please visit our COVID-19 Resource Center.

COVID-19 DISCLAIMER: As you are aware, as a result of the COVID-19 pandemic, things are changing quickly and the effect, enforceability and interpretation of laws may be affected by future events. The material set forth in this document is not an unequivocal statement of law, but instead represents our best interpretation of where things stand as of the date of first publication. We have not attempted to address the potential impacts of all local, state and federal orders that may have been issued in response to the COVID-19 pandemic.

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