March 20, 2020

Employer-Sponsored Group Health Plans Must Provide Cost-Free Coverage of COVID-19 Testing

On March 18, the President signed into law the Families First Coronavirus Response Act (the Act). Among other provisions, the Act requires employer-sponsored group health plans to provide cost-free coverage of COVID-19 testing.

Summary of New Requirement

The Act requires group health plans to cover the following items and services free of charge:

- FDA-approved COVID-19 testing; and
- items and services furnished during health care provider office visits (including telehealth visits), urgent care center visits and emergency room visits during which: (i) COVID-19 testing is ordered or performed or (ii) the individual is evaluated for COVID-19.

These items and services must be covered without imposing any cost sharing (including deductibles, copayments and coinsurance). Additionally, prior authorization or other medical management requirements may not be imposed.

The requirement to provide cost-free coverage of COVID-19 evaluation and testing only extends to individuals covered by the group health plan and therefore, does not apply to employees who are ineligible for coverage or who have waived coverage under the plan. Moreover, the following expenses remain subject to cost sharing pursuant to the terms of the group health plan:

- medical visits (including telehealth visits) unrelated to a COVID-19 evaluation; and
- treatment following a COVID-19 diagnosis.

As explained in an earlier alert, the Internal Revenue Service recently released guidance allowing (but not requiring) high deductible health plans (HDHPs) to provide cost-free testing for and treatment of COVID-19 without running afoul of the rules governing health savings accounts (HSAs). Under the Act, HDHPs are now required to provide cost-free testing for COVID-19, and may choose to cover the treatment of COVID-19 prior to satisfaction of any deductible (though this is not required).

Effective Date

The requirement to provide these cost-free benefits is effective as of March 18, and will continue to apply so long as the COVID-19 public health emergency exists (as determined by the Secretary of Health and Human Services).

Expanded Family and Medical Leave and Emergency Sick Leave

As explained in another alert, the Act also requires employers with fewer than 500 employees to provide employees with paid family leave and paid sick leave if they (or their families) are affected by COVID-19.

If you have any questions regarding the Act or any employee benefit matter, please contact any member of Day Pitney's Employee Benefits and Executive Compensation practice group.

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.

Authors



David P. Doyle
Partner

Parsippany, NJ | (973) 966-8136

ddoyle@daypitney.com



Thomas F. J. O'Mullane
Partner

Parsippany, NJ | (973) 966-8413

tomullane@daypitney.com