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# Group Health Plans Must Cover OTC COVID-19 Test Kits

Yesterday, the Biden Administration announced that effective January 15, 2022, insurance companies and group health plans will be required to provide expanded coverage of at-home/over-the-counter (OTC) COVID-19 tests. The announcement is designed to increase access to free testing.

The legal authority for the announcement comes from joint guidance issued by the Departments of Labor, HHS, and the Treasury (the "Departments") on the implementation of statutory requirements under the Families First Coronavirus Response Act ("FFCRA"), the Coronavirus Aid, Relief, and Economic Security ("CARES") Act, and the Affordable Care Act ("ACA") itself (as an ACA "preventive care" benefit). Since March 2020, the FFCRA has required group health plans to provide "first-dollar" coverage of certain COVID-19 related testing for the duration of the "public health emergency" (which has been continuously extended by HHS in 90-day periods). Section 6001(c) of the FFCRA authorizes the Departments to implement the requirements of section 6001 through sub-regulatory guidance, program, instruction, or otherwise.

The announcement from the White House was accompanied by these FAQs (sub-regulatory guidance) issued by the Departments.

Note that group health plans were already required by the FFCRA to cover at-home COVID testing when ordered by a physician, so this guidance simply removes the requirement that the test be ordered by a physician. However, as described in the FAQs, group health plans are permitted to limit coverage to no more than eight tests per individual per month and, under certain circumstances, limit reimbursement to no more than $12 per test.

Given the nearly immediate effective date, plan sponsors should act promptly and talk to their insurers and/or third-party administrations to ensure compliance.

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