



Compliance Alert

States Direct Insurers to Waive Cost-Sharing for COVID-19 Testing

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At least three states have now directed insurance carriers to waive all health plan cost-sharing associated with COVID-19 testing:

- 1) California
- 2) New York
- 3) Washington

For any fully insured policy situated in one of those states, employees and family members will have COVID-19 testing covered in full by the plan as a free service not subject to any deductibles, copays, or coinsurance.

California Notices:

- [California Insurance Commissioner Bulletin](#)
- [California Department of Managed Health Care All Plan Letter](#)

New York Notice:

- [New York Department of Financial Services Insurance Circular Letter](#)

Washington Notice:

- [Washington Insurance Commissioner Emergency Order](#)

What About Other State Policies?

More states are likely to follow in the coming weeks.

Even for those states without a directive to waive COVID-19 testing cost-sharing, insurance carriers may move voluntarily to make such services available at no cost to employees and family members.

For example, [Cigna announced yesterday](#) that all fully insured policies (including fully insured employer-sponsored group health plans) will make COVID-19 testing available at no cost as a free preventive service.

As another example, the state of [Oregon announced yesterday](#) that multiple insurance carriers in the state have agreed to waive cost-sharing for COVID-19 testing.

What About Self-Insured Plans?

Self-insured health plans are not subject to state insurance mandates, which means the new state cost-sharing directives for COVID-19 will not apply. For full details, see our prior post: [ERISA Preemption of State Insurance Mandates](#).

Employers desiring to waive COVID-19 cost-sharing in a similar manner with self-insured health plans should consult with their TPA and stop-loss provider to determine whether such measures are an option for the plan.

What About High Deductible Health Plans and HSA Eligibility?

The general rule is that an individual must meet two primary requirements to be HSA-eligible (i.e., to be eligible to make or receive HSA contributions):

- 1) Be covered by an HDHP; and
- 2) Have no disqualifying coverage (generally any medical coverage that pays pre-deductible).

An HDHP cannot cover any non-preventive expenses before the minimum statutory deductible (\$1,400 individual, \$2,800 family) is satisfied.

At this point, it is not clear how these state directives will affect HSA eligibility. It seems likely that the IRS will eventually release guidance confirming that COVID-19 testing can qualify for first-dollar coverage as an HDHP preventive service. The IRS already [issued guidance in 2019](#) expanding the list of preventive services available to HDHPs.

For more information on HSA eligibility issues, see our: [ABD 2020 Go All the Way With HSA Guide](#).

Where Can I Find More Information About Employer COVID-19 Policies Generally?

We're actively monitoring the coronavirus outbreak and reaching out with our update on the situation to provide insight and resources as it pertains to your employees and how your insurance policies may respond to losses related to COVID-19. We sympathize with everyone who has been impacted by the virus.

The Centers for Disease Control and Prevention (CDC) is working closely with the Department of Health and Human Services (HHS) regarding public communication and guidance. We encourage you to stay informed as this situation continues to develop. ABD will continue to provide information as we receive new details that can support your benefit and insurance needs.

Visit ABD Insight links below:

- [ABD Alert: COVID-19 Keeping your employees safe and aware](#)
- [ABD Alert: COVID-19 Protecting your company](#)

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