

Client Alert Applies To: Self-Funded, Fully-Funded, Large Group, and Small Group

January 13, 2022

Agencies Issue Guidance on Coverage of OTC COVID-19 Tests

On Jan. 10, 2022, the Departments of Labor (DOL), Health and Human Services (HHS), and the Treasury issued [FAQ guidance](#)¹ regarding the requirements for group health plans and health insurance issuers to cover over-the-counter (OTC) COVID-19 diagnostic tests.

Legal Requirements

Plans and issuers must cover the costs of COVID-19 tests during the COVID-19 public health emergency, without imposing any cost-sharing requirements, prior authorization, or other medical management requirements.

Under guidance issued in June 2020, at-home COVID-19 tests had to be covered but only if ordered by a health care provider who determined that the test was medically appropriate for the individual. At that time, the FDA had not yet authorized any at-home COVID-19 diagnostic tests. Since then, several types of OTC at-home tests have been approved.

As of Jan. 15, 2022, the cost of these tests must be covered, even if a health care provider was not involved in obtaining the test. However, the FAQs do not require tests to be covered if they are not for individualized diagnosis (such as tests for employment purposes).

Plan Options

Plans and insurance issuers may place some limits on coverage, such as:

- Requiring individuals to purchase a test and submit a claim for reimbursement, rather than providing direct coverage to sellers.

- Providing direct coverage through pharmacy networks or direct-to-consumer shipping programs, and limiting reimbursements to other sources (the actual cost of the test, or \$12, whichever is lower).
- Setting limits on the number or frequency of OTC COVID-19 tests that are covered (no less than eight tests per month or 30-day period).
- Taking steps to prevent, detect, and address fraud and abuse.

Important Dates:

Dec. 2, 2021

President Biden announced that guidance would be issued clarifying coverage of OTC COVID-19 tests.

Jan. 10, 2022

Federal agencies issued guidance for implementing coverage requirements for OTC COVID-19 tests.

Jan. 15, 2022

Plans and insurance issuers must provide coverage for OTC COVID-19 tests purchased on or after this date, including those purchased without a provider order or clinical assessment.

¹ <https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/faqs/aca-part-51.pdf>

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