FAQS PROVIDE ADDITIONAL CORONAVIRUS GUIDANCE FOR HEALTH PLANS

Hodgson Russ Employee Benefits Newsletter
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The departments of Labor, Health and Human Services, and Treasury jointly prepared a new set of frequently asked questions ("FAQs") regarding implementation of the Families First Coronavirus Response Act ("FFCRA"), the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), and other related health coverage issues. Here is a link to the FAQs.

The FFCRA and CARES Act included provisions that generally require group health plans to cover certain items and services related to COVID-19 testing without imposing any cost sharing or prior authorization requirements during the emergency period. This new guidance provides some clarity on the applicability and scope of these laws. The issues addressed in the FAQs include:

Notice requirements

Under previous guidance, the Departments announced temporary relief to the generally applicable requirement for plans to provide 60 days advance notice of any material modification to the terms of a plan that would be reflected in the plan's Summary of Benefits and Coverage. Specifically those changes made to increase benefits, or reduce or eliminate cost-sharing requirements, for the diagnosis and/or treatment of COVID-19 and telehealth or other remote care services during the public health emergency or national emergency declaration period related to COVID-19.

Under this new guidance, the Departments clarify that if a plan reverses these changes once the public health emergency is over, the Departments will consider a plan to have satisfied its notice obligation if the plan:

- Previously notified the participant, beneficiary, or enrollee of the general duration of the additional benefits coverage or reduced cost sharing (such as, that the increased coverage applies only during the COVID-19 public health emergency); or
- Notifies the participant, beneficiary, or enrollee of the general duration of the additional benefits coverage or reduced cost sharing within a "reasonable timeframe" in advance of the reversal of the changes.

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Wellness programs

Wellness programs that require an individual to satisfy a standard related to a health factor to obtain a reward must provide a reasonable alternative standard (or waiver of the otherwise applicable standard) for obtaining any reward to individuals for whom it is unreasonably difficult due to a medical condition, or medically inadvisable, to satisfy the otherwise applicable standard.

Under the new guidance, plans are permitted to waive a standard (including a reasonable alternative standard) for obtaining a reward under a health-contingent wellness program. However, to the extent the plan waives a wellness program standard as a result of the COVID-19 public health emergency, the waiver must be offered to all similarly situated individuals.

Coverage of at-home testing

COVID-19 tests intended for at-home testing (including tests where the individual performs self-collection of a specimen at home) must be covered, when the test is ordered by an attending health care provider. This coverage must be provided without imposing any cost-sharing requirements, prior authorization, or other medical management requirements.

No required coverage for employment purposes

Testing conducted to screen for general workplace health and safety (such as employee “return to work” programs), or for any other purpose not primarily intended for individualized diagnosis or treatment of COVID-19 or another health condition is not required by FFCRA.

In light of this new guidance, employers should confirm that they are appropriately notifying participants regarding changes to their health coverage and otherwise administering the group health coverage in a manner consistent with applicable law. (FFRCA – Part 43 FAQs)