Agency Guidance on Health & Welfare Issues Related to COVID-19

Article By:

Maureen M. Maly

K. Elise Norcini

As the COVID-19 pandemic continues, our clients are dealing with rapidly evolving compliance issues with respect to health and welfare benefit plans and the implementation of existing and new regulatory requirements. Below is a chart providing links to guidance issued by various government agencies with respect to health and welfare plan issues related to COVID-19. This chart is current as of May 12, 2020. There are a number of questions and issues outstanding, and we expect further guidance.

	Guidance	Topics	Cite
1.	DOL, HHS, and Treasury FAQs on FFCRA[1] and CARES[2] Act Implementation	Addresses coverage of COVID-19 testing and telehealth services.	FAQs About FFCRA and CARES Act Implementation Part 42 (April 11, 2020) Available here
2.	DOL temporary rule for paid sick and family leave under FFCRA and CARES Act	Addresses requirements to maintain group health plan coverage during this paid leave (requirements are similar to FMLA rules)	DOL Reg. 826.10-826.160, 66 Fed. Reg. 19326 (April 6, 2020) Available here
3.	IRS Notice on HDHPs and COVID-19	Allows HDHPs to provide COVID-19 testing without a deductible	IRS Notice 2020-15, High Deductible Health Plans and Expenses Related to COVID-19

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		(March 11, 2015) Available [here](#)
4.	OCR Bulletin on HIPAA and Coronavirus	Discusses HIPAA privacy rule application during coronavirus public health emergency	OCR HHS Bulletin, HIPAA Privacy and Novel Coronavirus (February 2020) Available [here](#)
5.	IRS Guidance on Extended Filing Deadlines	Provides limited extension of select Form 5500 deadlines (but not for 2019 Form 5500s for calendar year plans) and certain HSA rollover deadlines and cafeteria plan deadlines	IRS Notice 2020-23 (updates Rev. Proc. 2018-58) Available [here](#)
6.	EBSA Disaster Relief Notice 2020-01	Provides for enforcement discretion for certain ERISA-required notices	EBSA Notice 2020-01 Available [here](#)
7.	DOL and Treasury Final Rule	Provides relief with respect to certain HIPAA special enrollment, COBRA, and claims /appeals deadlines	Final Rule, Extension of Certain Timeframes for Employee Benefit Plans Available [here](#)
8.	EBSA COVID-19 FAQs for Participants	Discusses group health plan coverage, among other topics	COVID-19 FAQs for Participants and Beneficiaries (April 28, 2020) Available [here](#)
9.	IRS Notice on § 125 Cafeteria Plans and COVID-19	Allows for increased flexibility with respect to mid-year elections under a § 125 cafeteria plan for 2020 and with respect to grace periods applicable to unused amounts in health care and	IRS Notice 2020-29 (May 12, 2020) Available [here](#)

Guidance	Topics	Cite	
		dependent care FSAs for expenses incurred through 12/31/2020	
10.	IRS Notice on the Permissive Carryover Rule for Health FSAs and Clarification Regarding Reimbursements of Premiums from Individual Coverage HRAs	Increases the carryover limit (currently $500) of unused amounts remaining in a health FSA under a § 125 cafeteria plan to reflect indexing for inflation and clarifies the ability of a health plan to reimburse individual health insurance policy premium expenses to assist with the implementation of individual coverage HRAs	IRS Notice 2020-33 (May 12, 2020) Available here

[1] Families First Coronavirus Response (FFCR) Act, signed into law on March 18, 2020. FFCRA Section 6001 requires coverage of diagnostic testing for COVID-19.

[2] Coronavirus Aid, Relief, and Economic Security (CARES) Act, signed into law on March 27, 2020. The CARES Act contains several provisions related to health and welfare benefit plans: (1) Section 3201, coverage of diagnostic testing for COVID-19; (2) Section 3202, pricing of diagnostic

testing; (3) Section 3203, rapid coverage of preventive services and vaccines for coronavirus, (4) Section 3221, confidentiality and disclosure of records

relating to substance use disorder; (5) Section 3224, guidance on protected health information; (6) Section 3701, exemption for telehealth services; and

(7) Section 3702, inclusion of certain over-the-counter medical products as qualified medical expenses.

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