



National Compliance Update

USI EMPLOYEE BENEFITS

November 13, 2020

Final Regulations Address Coverage for COVID-19 Vaccines

On October 29, 2020, the Departments of Labor, Health and Human Services, and the Treasury (collectively, the "Departments") issued interim final regulations that amend regulations regarding coverage of preventive health services to implement Section 3203 of the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act").¹ While the rule addresses various aspects of a COVID-19 vaccine, this article highlights the impact to group health plans.

Briefly, non-grandfathered group health plans must cover, without cost-sharing (both in-network and out-of-network), *qualifying coronavirus preventive services* (including immunizations) within 15 business days following an applicable recommendation by the Advisory Committee on Immunization Practices ("ACIP") and adopted by the Centers for Disease Control and Prevention ("CDC").

Grandfathered plans, excepted benefits or short-term limited duration insurance are encouraged to provide this coverage to all enrollees without cost-sharing.²

As of the writing of this article, an approved COVID-19 vaccine is not yet available. This guidance addresses how future vaccines and related treatment must be covered by health insurance plans. These regulations are immediately applicable and apply until the end of the Public Health Emergency for COVID-19 as determined by the Department of Health and Human Services (currently January 21, 2021, unless further extended).

Other highlights from the guidance follow:

- *Qualifying coronavirus preventive services* include the vaccine itself and an office visit (not billed separately) where the primary purpose is the delivery of the recommended COVID-19 immunization.

¹ See USI's April 21, 2020 Compliance Update, "[New Mandatory Preventive Items and Services](#)."

² Under the final regulations, only non-grandfathered plans are required to provide such coverage without cost-sharing. However, grandfathered plans and other excepted benefits are encouraged to provide similar coverage. While Section 3203 of the CARES Act may have been read to include grandfathered plans in the mandate, the regulations exclude them from the requirement.

- With respect to a qualifying coronavirus preventive service and a provider with whom the plan or issuer does not have a negotiated rate for such service (such as an out-of-network provider), the plan or issuer must reimburse the provider for such service in an amount that is reasonable, as determined in comparison to prevailing market rates for such service.

EMPLOYER NEXT STEPS

For now, employer group health plan sponsors should take note of this information and continue to monitor. Once a vaccine is closer to release, plan sponsors should ensure their health insurance carrier and/or plan administrators are covering these required services without cost sharing to participants.

RESOURCES

- For a copy of the regulations, visit <https://www.govinfo.gov/content/pkg/FR-2020-11-06/pdf/2020-24332.pdf>
- For a copy of the HHS toolkit, visit <https://www.cms.gov/files/document/COVID-19-toolkit-issuers-MA-plans.pdf>

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