

# LEGAL UPDATE

## Guidance Released on Coverage of OTC COVID-19 Tests

On January 10, 2022, U.S. Department of Health & Human Services (HHS), Department of Labor, and the Treasury issued [guidance](#) 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 any cost-sharing requirements, prior authorization, or other medical management requirements.

According to guidance issued in June 2020, at-home COVID-19 tests were covered only if they were 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.

Starting Saturday, January 15, 2022, group healthcare plans, including fully insured and self-funded plans and individual insurance policies, will be required to cover the cost of these tests, even if they are obtained without the involvement of a health care provider. Tests are not required 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 8 tests per month or 30-day period).
- Taking steps to prevent, detect, and address fraud and abuse.

### Important Dates

#### December 2, 2021

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

#### January 10, 2022

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

#### January 15, 2022

Deadline for plans and issuers to provide coverage for OTC COVID-19 tests available without a health care provider order or assessment.

***At-home COVID-19 tests must be covered even if they are obtained without the involvement of a health care provider.***