

# Multiemployer Alert

Update on Issues Affecting Taft-Hartley Plans

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## Coronavirus Aid, Relief, and Economic Security Act

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On Friday, March 27, 2020, the President signed the “Coronavirus Aid, Relief, and Economic Security Act”, the third Act in response to the coronavirus pandemic. Below is a chronology of the Acts passed to date in response to the coronavirus pandemic:

- March 6, 2020 – Coronavirus Preparedness and Response Supplemental Appropriations Act of 2020
- March 18, 2020 – Families First Coronavirus Response Act
- **March 27, 2020 – Coronavirus Aid, Relief, and Economic Security Act (“CARES” Act)**

This alert describes Title III (Supporting America’s Health Care System in the Fight Against the Coronavirus), Part II (Access to Healthcare for COVID-19 Patients), Subpart A (Coverage of Testing and Preventive Services), of the CARES Act, which expands upon Division F, Health Provisions, of the Families First Coronavirus Response Act.

### Coverage of Diagnostic Testing for COVID-19

The CARES Act reiterates the requirement for group health plans and health insurance issuers offering group or individual health insurance coverage (including *grandfathered health plans under the Affordable Care Act*) to provide coverage without any participant cost sharing requirements (including deductibles, copayments, and coinsurance) or prior authorization or other medical management requirements, for the following items and services during the emergency period<sup>1</sup>:

- Testing for COVID–19 (including the administration of such tests). Tests include:
  - Those approved, cleared, or authorized by the FDA
  - Those whose developer has requested or intends to request emergency use authorization (with some exceptions)
  - Those developed in and authorized by a State that intends to review such tests
  - Those that the Secretary of Health and Human Services has determined are appropriate in guidance
- Office visits (including in-person visits and telehealth visits), urgent care center visits, and emergency room visits that result in an order for testing or administration of testing
  - Only the portion of the visit directly associated with or resulting in an order for COVID-19 testing is required to be covered without participant cost sharing (e.g. a concurrent lab test unrelated to COVID-19 testing is not required to have participant cost sharing waived)

Please note that the mandate does not cover treatment for COVID-19, only testing.

<sup>1</sup> The ongoing emergency period declared by the Department of Health and Human Services on January 31, 2020, applied retroactively to January 27, 2020.

## Provider Reimbursement of Diagnostic Testing and Requirement to Disclose Cash Price

The CARES Act states that a group health plan or a health insurance issuer shall reimburse providers for the services described in the above section as follows:

- If the group health plan or issuer has a negotiated rate with a provider, then the negotiated rate shall apply
- If the health plan or issuer does not have a negotiated rate with a provider, then the health plan or issuer shall reimburse the provider in an amount that equals the cash price for such service as listed by the provider on a public internet website
  - The law is not specific on the amount that health plans should reimburse if the health plan does not have a negotiated rate with the provider and the provider does not publish a cash price.

Each provider of a diagnostic test for COVID-19 is required to disclose the cash price for such test on a public internet website of such provider.

The Secretary of Health and Human Services may impose a civil monetary penalty on any provider of a diagnostic test for COVID-19 that does not disclose the cash price for such test on a public internet website and has not completed a corrective action plan to comply. The amount of the penalty is not to exceed \$300 per day that the violation is ongoing.

## Rapid Coverage of Preventive Services and Vaccines for Coronavirus

The CARES Act states that a group health plan or a health insurance issuer shall cover any qualifying coronavirus preventive services within 15 business days after such preventive service becomes qualified.

A qualified coronavirus preventive service is defined as follows:

- An evidence-based item or service that has in effect a rating of “A” or “B” in the current recommendations of the United States Preventive Services Task Force; or
- An immunization that has in effect a recommendation from the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention

## Exemption for Telehealth Services

The CARES Act also amends Paragraph (2) of section 223(c) of the Internal Revenue Code of 1986 to allow coverage of telemedicine and other remote care services without participant cost sharing under a high deductible health plan for plan years beginning on or before December 31, 2021. The amendment provides for safe harbor for such plans so they do not lose status as a high deductible health plan.

We will continue to monitor and keep our clients apprised of any developments or additional legislation that is introduced.



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