

# FYI<sup>®</sup>

## For Your Information<sup>®</sup>

### **Expedited coverage of new COVID-19 preventive services and immunizations**

The Departments of Treasury, Labor, and Health and Human Services recently issued rules that require plans to provide first-dollar coverage for COVID-19 preventive services and immunizations within 15 business days of a recommendation by the U.S. Preventive Services Task Force or the Centers for Disease Control.

#### **Background**

The ACA requires non-grandfathered health plans to cover in-network preventive services in full. A plan must cover a new preventive service recommendation or guideline that has a rating of “A” or “B” in the recommendations of the United States Preventive Services Task Force (USPSTF) beginning with the first plan year that starts on or after the date that is one year after the new recommendation or guideline is adopted. For example, if the USPSTF adopts a new “A” or “B” preventive service coverage recommendation on April 1, 2020, a calendar year plan must begin covering this service on January 1, 2022. (See our [August 7, 2015 FYI](#).)

The CARES Act expanded the ACA preventive service mandate to include coverage of recommended COVID-19 immunizations and other qualifying coronavirus preventive services. However, unlike other preventive services, these services must be covered within 15 business days after the new recommendation or guideline is adopted. Also, unlike the COVID-19 diagnostic testing mandate, 100% coverage of preventive services and immunizations appeared to only be required in-network, the same as other preventive services and immunizations. (See our [March 31, 2020 FYI Alert](#).)

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#### **Application to retiree-only and non-grandfathered plans**

Because retiree-only and non-grandfathered plans are not subject to the ACA preventive services mandate, they also are not required to provide first-dollar coverage of COVID-19 immunizations and other preventive services.

The Departments of Treasury, Labor, and Health and Human Services (the departments) recently issued an interim final rule that, among other things, sets out how group health plans must satisfy the CARES Act COVID-19 preventive service and immunization coverage mandate.

## Coverage of COVID-19 preventive services and immunizations

The interim final rules generally incorporate the current ACA preventive service regulations but add the following specific provisions to address coverage of COVID-19 preventive services and immunizations.

### First-dollar coverage of both in-network and out-of-network services

The regulations clarify that a plan must cover any qualifying coronavirus preventive service without cost-sharing (i.e., without application of a deductible, copayment, or coinsurance) regardless of whether the service is delivered by an in-network or out-of-network provider. If a plan does not have a negotiated rate with a provider, it must reimburse the provider for the service at a reasonable rate, as determined in comparison to prevailing market rates for the service.

#### What is a qualifying coronavirus preventive service?

A qualifying coronavirus preventive service is an item, service, or immunization that is intended to prevent or mitigate coronavirus disease and, with respect to the individual involved, is either an evidence-based item or service that has a rating of “A” or “B” in current USPSTF recommendations or an immunization that has a recommendation from the CDC in effect.

**Buck comment.** The preamble of the interim final rule states that the amount paid under Medicare for the service will be considered reasonable for out-of-network providers.

### Coverage within 15 business days of adoption

A plan must provide coverage for a qualifying coronavirus preventive service no more than 15 business days after a recommendation is made.

**Buck comment.** Although not addressed in the interim rules, it appears that, as with the coverage of COVID-19 diagnostic testing, plan sponsors will be required to provide notice to participants about the coverage of these services as soon as “reasonably practical.” (See our [April 15, 2020 FYI Alert](#).)

### Sunset date

These requirements only apply while the public health emergency declared by the Secretary of Health and Human Services remains in effect.

**Buck comment.** It appears that after the “special” coverage rules end, the coverage of coronavirus preventive services would be subject to the general ACA preventive service requirements.

## In closing

With the approval of COVID-19 vaccines apparently imminent, plans need to be ready to satisfy the CARES Act coverage mandate.

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