

HEALTH PLANS REQUIRED TO COVER OTC COVID-19 TESTS

Hodgson Russ Employee Benefits Alert
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The Department of Labor issued guidance clarifying that group health plans are required to cover the cost of over-the-counter COVID-19 diagnostic tests (“OTC Tests”) purchased on or after January 15, 2022 during the public health emergency. The OTC Tests do not need to be prescribed by a health care provider to be covered by a plan. Further, these tests must be covered without any cost-sharing requirements, prior authorization, or other medical management requirements.

To guard against potential abuse, a plan may require participants to attest to the fact that any OTC Tests are for their personal use and not resale. A group health plan may require a participant who purchases an OTC Test to either submit a claim for reimbursement, or arrange to provide coverage by reimbursing sellers directly without requiring participants to provide upfront payment. Plan Sponsors choosing the “direct payment” option, may make arrangements to provide tests purchased through its pharmacy network or a direct-to-consumer shipping program, and otherwise limit reimbursement for OTC Tests from non-preferred pharmacies or other retailers to no less than the actual price, or \$12 per test (whichever is lower). If the plan does not chose the “direct payment” option, the plan will be required to reimburse the full cost of the OTC Test purchased by the participant.

Plans may limit the number of OTC Tests covered by the plan to 8 per participant per month. (e.g., a family of 4 could receive up to 32 tests per month). However, there is no limit to the number of COVID tests that may be reimbursed if the test is prescribed by a health care provider. Plan sponsors are encouraged to communicate the availability of the OTC tests and process for reimbursement to plan participants. (DOL FAQs issued January 10, 2022;[here](#)).

If you have any questions on the OTC Test reimbursement rules, please contact [Michael Flanagan](#) (716.848.1480), [Amy Walters](#) (716.848.1481), or any member of our [Employee Benefits Practice](#).

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