

NEWS ALERT

EMPLOYEE BENEFITS



CARES Act Includes Important Health Plan-Related Provisions

By Melanie N. Aska and Ereik M. Sharp | March 31, 2020

On Friday, March 27, 2020, the House of Representatives passed by voice vote, and the President signed into law, the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act, [H.R. 748]) a \$2 trillion relief package—the largest stimulus in modern history—to provide immediate help to individuals and businesses affected by the COVID-19 pandemic. The Senate approved the bill 96-0 on March 25, 2020.

Our [March 29, 2020 Employee Benefits News Alert](#) highlighted the key retirement plan and IRA-related provisions in the CARES Act. This Employee Benefits News Alert highlights the CARES Act's key health plan-related provisions:

- [COVID-19 Diagnostic Testing](#)

The CARES Act requires group health plans and health insurance issuers offering group or individual health insurance to cover (without cost-sharing to the participant, such as deductibles, copayments, and coinsurance) diagnostic testing for the detection of SARS-CoV-2 or the diagnosis of the virus that causes COVID-19, including (1) tests approved by the federal Food and Drug Administration (FDA), (2) tests for which a developer has requested (or intends to request) emergency use authorization from the FDA, (3) tests that have been developed in a state that has notified the Secretary of Health and Human Services (HHS) of its intention to review tests intended to diagnose COVID-19, and (4) other tests that the Secretary of HHS determines appropriate in future guidance.

- [COVID-19-Related Preventive Services, Including Vaccines](#)

The CARES Act also requires group health plans and health insurance issuers offering group or individual health insurance to cover (without cost-sharing to the participant, such as deductibles, copayments and coinsurance) any "qualifying coronavirus preventive service" as a preventive benefit under the Affordable Care Act (ACA). A "qualifying coronavirus preventive service" is an item, service, or immunization (vaccine) that is intended to prevent or mitigate COVID-19 and that is either (1) 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 (2) an immunization that has in effect a recommendation from the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention (CDC) with respect to the individual involved.

- Telehealth and Other Remote Care Services

The CARES Act also amends the health savings account (HSA) rules under Internal Revenue Code (Code) Section 223 to provide that, for plan years beginning on or before December 31, 2021, a high-deductible health plan (HDHP) will still be HSA-compatible if the HDHP covers telehealth services and other remote care services before the HSA-eligible individual reaches the HDHP's applicable minimum deductible. On a related note, on March 11, 2020, the IRS issued Notice 2020-15 (High Deductible Health Plans and Expenses Related to COVID-19) which provides that a group health plan which otherwise is an HSA-compatible HDHP will not cease to be an HSA-compatible HDHP simply because it provides benefits associated with testing for, and treating, COVID-19 without a deductible or with a deductible below the applicable minimum deductible (self only or family) for an HDHP.

- Qualified Medical Expenses Include Menstrual Care Products

Finally, the CARES Act amends the HSA rules under Code Section 223, the Archer Medical Savings Account (MSA) rules under Code Section 220, and the health flexible spending account (FSA) and health reimbursement arrangement (HRA) rules under Code Section 106 to permit all such arrangements to pay or reimburse, as qualified medical expenses, amounts paid for menstrual care products, which are defined to mean tampons, pads, liners, cups, sponges, or similar products used by individuals with respect to menstruation or other genital-tract secretions.

If you have any questions about this bulletin, please contact Melanie N. Aska at maska@murthalaw.com or 617.457.4131, or Ereik M. Sharp at esharp@murthalaw.com at 203.772.7772.

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