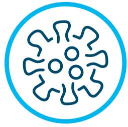
Note: This document briefly summarizes provisions in the Coronavirus Aid, Relief, and Economic Security Act ("the CARES Act") that could possibly be of interest to church plans, ministries and plan members. This summary reflects those CARES Act provisions as they are currently understood on March 31, 2020, without any agency guidance. As guidance is issued that may be applicable, we plan to provide information to you on that guidance or to refer you to that guidance, but may not be able to update the summary with that information. This summary is for general information only. It is not a complete analysis and should not be relied upon as legal advice.



Health Plan Changes

The CARES Act made a couple of technical amendments to the Families First Coronavirus Response Act, adding new language to the requirement that group health plans cover testing for COVID-19, including antibody testing. The new language is designed to avoid technical issues slowing up new testing methods.

The other technical amendment deals with rates to be paid by health plans for the testing. Group health plans may pay a negotiated rate, if one was in effect prior to the public health emergency. If the plan did not have such a rate, the plan may pay the cash price (which the provider is required to list on a public internet site during the emergency period), or the plan may negotiate a rate less than that price.

Another CARES Act provision seems designed to smooth the way for payment of vaccines when they are developed. "Any qualifying coronavirus preventive service " will be treated as "preventive" care that group health plans will have to cover at no cost.

High-deductible health plans will be permitted to cover telehealth and other remote care services without a deductible, for plan years beginning on or before December 31, 2021. (Coverage by a plan that pays for such services without a deductible will be disregarded for purposes of other forbidden coverage.) This provision takes effect on March 27, 2020.

There are two provisions that deal with protected health information ("PHI"). One is designed to allow for additional care coordination by aligning the confidentiality rules for substance abuse disorder treatments with the HIPAA rules generally. The other directs the Secretary of HHS to issue guidance on the sharing of PHI during the various categories of public health emergency that have been declared. The guidance is due within 180 days of March 27, 2020.

The CARES Act also expands the types of expenses that can be reimbursed from consumer-driven health plans (e.g., health savings accounts, health reimbursement arrangements, healthcare flexible spending accounts etc.) to include over-the counter drugs without a prescription.

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[1] For example, the amended language requires coverage of a test for which the developer has requested emergency use authorization under 21 USC Section 360bbb-3, unless the request has been denied or the developer does not submit a request under this section within a reasonable time.

[2] The emergency period is the one declared under section 319 of the Public Health Service Act, 42 USC 247d.

[3] "Qualifying" means an item intended to prevent or mitigate coronavirus that is either recommended (with an A or B grade) by the US Preventive Services Task Force or "effectively recommended" by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

[4] Under Section 2713(a); the waiting period interval under Section 2713(b) is to be disregarded, and the coverage requirement will be effective instead 15 days after the pertinent recommendation.

[5] There is a fair amount of detail in the section, but it appears to be technical material that would not be a priority for any potential efforts to change anything on behalf of the Church Alliance, so in the interest of brevity further detail is deferred.