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DEPARTMENT OF INSURANCE

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DATE: July 10, 2020
TO: All Health Insurance Carriers
FROM: Dean L. Cameron, Director
SUBJECT: COVID-19 Virus Testing Coverage Expectations

The COVID-19 pandemic has created unprecedented challenges for Idaho residents. Recognizing that the public may seek a variety of laboratory tests for the COVID-19 virus, this Bulletin addresses coverage for the COVID-19 virus testing that is medically necessary to diagnose or treat COVID-19 or associated health conditions.

On March 13, 2020, Governor Little signed a proclamation declaring a state of emergency in Idaho due to the novel coronavirus pandemic, which states in part:

State agencies and departments are directed to utilize state resources and to do everything reasonably possible to assist affected political subdivisions in an effort to respond to and recover from the 2019 novel coronavirus (COVID-19).

The emergency proclamation has the force and effect of law (Idaho Code section 46-1008).

The Director of the Department of Health and Welfare issued an Order to Self-Isolate based on the COVID-19 emergency on March 25, 2020, based, in part, upon a finding that some individuals who contract the COVID-19 virus have no symptoms or have mild symptoms. This means there are asymptomatic individuals who may unknowingly spread the virus. The Governor appointed a COVID-19 Testing Task Force to provide guidance regarding the appropriateness of testing, and their report was published May 20, 2020, available at <https://rebound.idaho.gov/wp-content/uploads/testing-recommendations.pdf>.

The public health and societal consequences of the spread of the COVID-19 virus have dramatic impacts in Idaho. It is essential that government and the insurance industry take all appropriate steps to safeguard the well-being of the citizens of Idaho. Health insurance coverage plays a critical role in the public's actual and perceived access to affordable health care services. The COVID-19 virus may impose unique risks to our insurance market that Idaho has not faced for at least a generation.

Therefore, the Department is notifying Idaho Carriers of the expectation to take all necessary steps to enable their insureds to obtain medically necessary and appropriate testing to fight the spread of this disease, including continuing to remove barriers to testing for the COVID-19 virus,

in accordance and consistent with the COVID-19 Testing Recommendations of the Testing Task Force. To effectively remove barriers to testing and treatment of the COVID-19 virus, the Department recommends that Carriers:

- Establish and publicize how insureds can obtain direct responses from the Carrier about prevention and testing of the COVID-19 virus, about the insureds' available benefits, and how to find medical providers who offer testing for the virus.
- Relax prior approval requirements and procedures for medically necessary testing or treatment, so that insureds that may have been exposed to the COVID-19 virus may receive timely testing and treatment.
- Ease out-of-network requirements and procedures when access to urgent testing or treatment is unavailable from in-network providers.
- Forgo any cost-sharing (copayments, deductibles, or coinsurance) for covered COVID-19 virus diagnostic testing and related services, including influenza testing or other respiratory testing when done in conjunction with COVID-19 virus testing, at in-network doctors' offices, urgent care centers, or emergency rooms; and at out-of-network doctors' offices, urgent care centers, or emergency rooms when access to urgent testing or treatment is unavailable from in-network providers.

Diagnostic and Antibody Testing for the COVID-19 Virus

At present, two main types of testing exist: diagnostic or antibody/serologic. Diagnostic tests, such as molecular (RT-PCR) and antigen tests, look for the presence of unique genetic material or specific proteins of the COVID-19 virus and are more beneficial in determining an active infection. Antibody testing can indicate current or past infection by detecting the presence of antibodies that bind to protein of the virus.

The Department expects Carriers to cover these tests in accordance with the recommendations of the Governor's COVID-19 Testing Task Force and federal guidance regarding the obligations of insurers under the First Coronavirus Response Act (the FFCRA) and the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act). This expectation to cover diagnostic and antibody COVID-19 virus tests is limited to those that are approved, cleared, or authorized for patient use under the Federal Food, Drug, and Cosmetic Act, including through premarket approval or emergency use pathways, and tests that are developed and administered in accordance with state regulatory approval.

Carriers should cover COVID-19 virus tests that meet the above criteria when medically necessary for the individual, as determined by the individual's attending health care provider. An "attending health care provider" is an individual who is licensed (or otherwise authorized) under applicable law, who is acting within the scope of the provider's license (or authorization), and who is responsible for providing care to the patient. A health care provider need not be directly responsible for providing care to the patient to be considered an attending provider, as long as the provider makes an individualized clinical assessment to determine whether the test is medically necessary for the individual in accordance with current accepted standards of medical practice.

In accordance with the Testing Task Force recommendations, an attending health care provider may find it medically necessary for an asymptomatic individual to be tested: (1) upon hospitalization, (2) before having a potential aerosol-generating procedure, (3) after likely contact with confirmed or probable cases, or (4) in other situations as determined by the attending health care provider.

An FDA-authorized at-home COVID-19 virus test should be covered when ordered by an attending health care provider that determined the test is medically necessary for the individual.

The Department recognizes that the clinical or diagnostic use of an antibody test is more limited than a molecular or antigen test. Additionally, the Food and Drug Administration currently recommends that antibody tests not be used as the sole basis for diagnosis. Given that, Carriers should still apply the same criteria to their coverage of an antibody test, which is that the test should be covered when an attending health care provider makes an individualized clinical assessment and determines the test medically necessary for the individual.

Carriers should not limit the number of tests covered for an individual, so long as the tests meet the criteria explained previously.

In response to Carrier questions, the Department finds that COVID-19 virus testing, regardless of the type, is not medically necessary if the test is solely directed or requested (1) by an employer as part of “return-to-work” or other employer-directed program, (2) for public health surveillance testing, or (3) for any other purpose not intended for individualized diagnosis or treatment of COVID-19 or another health condition.

Carriers Acting as Administrators - Self-funded Plans

Federal statute and FAQs clarify that the requirement of the FFCRA and CARES Act to provide coverage of FDA-authorized diagnostic testing for the COVID-19 virus applies to both insured and self-funded health plans. When Carriers are acting as administrators for self-funded employer-sponsored health benefit plans, the Department expects Carriers to encourage plan sponsors to take steps that are consistent with the provisions of the COVID-19 Testing Recommendations of the State of Idaho Testing Task Force and this Bulletin. Plan sponsors should be made aware of the public health risks to all Idaho residents, and Carriers should encourage plan sponsors to take steps to remove barriers to accessing medically necessary testing, diagnosis, and treatment of the COVID-19 virus.

This Bulletin is not new law but is an agency interpretation of existing law, except as authorized by law or as incorporated into a contract. Requests for additional information or other inquiries regarding this Bulletin can be directed to Deputy Director Wes Trexler at 208-334-4214 or weston.trexler@doi.idaho.gov.