



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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To: All Insurers Authorized to Write Health Insurance,
Agents and Interested Parties

From: Mark V. Afable, Commissioner of Insurance

Subject: Summary of Federal Laws Establishing COVID-19 Requirements.

Two federal laws were recently enacted; the Families First Coronavirus Response Act (FFCRA) on March 18, 2020, and Coronavirus Aid, Relief, and Economic Security Act (CARES) on March 27, 2020. The Office of the Commissioner of Insurance (OCI) is providing a summary of the key health sections. These federal laws should be read in conjunction with applicable state laws, including the recent COVID-19 legislation.¹

This summary is intended as information only, and not an interpretation of the law by OCI.

FFCRA Key Provision Section 6001:

The FFCRA section 6001 requires coverage of diagnostic tests for the detection of COVID-19, and related items and services provided to an individual during an office visit (in-person and telehealth visits), urgent care visits, and emergency room visits when the items or services are related to diagnostic testing for COVID-19. Further, the coverage required is to be provided without the application of cost-sharing (deductibles, copayments, or coinsurance), and without prior authorization or other medical management requirements. These added benefits are applicable beginning March 18, 2020, through the federally declared public health emergency.²

CARES Key Provisions Sections 3201 – 3203:

The CARES Act amended FFCRA section 6001 to include a broader range of diagnostic items and services that must be covered without cost-sharing requirements, prior authorization, or other medical management requirements. See Section 3201. Section 3202 requires reimbursement for any provider of COVID-19 diagnostic testing of the amount that equals the negotiated rate or the cash price for such service that is listed by the provider on a public website. The CARES Act permits group health plans or group

¹ OCI Bulletin issued April 21, 2020 regarding 2019 Wis. Act 185
<https://oci.wi.gov/Pages/Regulation/Bulletin20200421WIAct185.aspx>.

² Note, 2019 Wis. Act 185 that created Wis. Stat. § 632.895 (14g), extends coverage requirements for COVID-19 testing for disability insurance plans and non-federal governmental plans through March 13, 2021.

and individual health insurance health plans to negotiate a rate with a nonparticipating provider that is lower than the cash price.³

Section 3203 requires coverage, without cost-sharing, of any qualifying coronavirus preventive service, item, or immunization that is intended to prevent or mitigate the COVID-19 disease. The coverage for immunizations is similar to current coverage requirements under Public Health Services Act (PHSA) section 2713, however, unlike other immunization effective dates, the COVID-19 immunization will be required to be covered within 15 business days after the recommendation is made.

Sections 3201 and 3202 of this Act are applicable for the period beginning March 27, 2020, and extending through the federally declared public health emergency. However, section 3203 amends PHSA section 2713 and will not expire with the health emergency.

Applicability of FFCRA and CARES Acts:

FFCRA section 6001 and CARES sections 3201 and 3202 apply to group health plans, health insurance issuers offering group and individual health insurance plans as defined in PHSA section 2791. Group health plans include the Employee Retirement Income Security Act of 1974 (ERISA) plans that are fully insured or self-funded plans, non-federal, governmental plans, and church plans. Individual and group health insurance plans include plan offered through and outside of the federal Marketplace and also includes grandfathered and transitional health plans.

However, short-term limited-duration plans and excepted benefit plans, as defined in PHSA section 2791, are exempt from both FFCRA and the CARES Acts. Under FFCRA section 6001 and CARES section 3201, a group health plan that does not cover at least two current employees (for example retiree-only plans) is also exempt.

Additional Resources:

The Center for Medicare and Medicaid Services (CMS) has issued fact sheets and frequently asked questions that may be helpful when interpreting these laws. The National Association of Insurance Commissioners (NAIC) has also compiled resources related to COVID-19.⁴

Any questions concerning this bulletin may be directed to Olivia Hwang, Director of Public Affairs, by email at Olivia.Hwang@wisconsin.gov.

³ Note, 2019 Wis. Act 185 that created Wis. Stat. § 609.205, should be reviewed when determining reimbursement requirements.

⁴ CMS information may be accessed through: <https://www.cms.gov/cciio/resources/Fact-Sheets-and-FAQs/index#COVID-19>. The NAIC information may be accessed through: https://content.naic.org/naic_coronavirus_info.htm