

Oregon Department of Consumer and Business Services Division of Financial Regulation, Bulletin No. DFR 2021-1

TO: All entities offering health benefit plans

DATE: February 4, 2021

RE: Coverage of COVID-19 Vaccination

Purpose:

The bulletin clarifies the division’s expectations around the coverage of COVID-19 vaccination by health benefit plans in Oregon.

Background:

On January 30, 2020, the International Health Regulations Emergency Committee of the World Health Organization declared the novel coronavirus outbreak a “public health emergency of international concern.” On January 31, 2020, the U.S. Health and Human Services Secretary first declared a Public Health Emergency (PHE) due to COVID-19, which has since been renewed. Oregon Governor Kate Brown declared a statewide emergency on March 8, 2020, and has extended the declaration of emergency since that time.

On March 5, 2020, Governor Brown announced that the state had reached an agreement with health insurance companies to provide coverage for COVID-19 immunization when it becomes available.

The federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act), was signed into law on March 27, 2020. The CARES Act provides that non-grandfathered individual and group health plans required to cover certain preventive services without cost-sharing under Section 2713 of the Public Health Service Act must expedite coverage of these services as they relate to COVID-19.¹ Section 3203 of the CARES Act requires that these services be covered without cost-sharing within 15 days after a recommendation by the U.S. CDC Advisory Committee on Immunization Practices (ACIP).

The U.S. Departments of Treasury, Labor, and Health and Human Services issued an interim final rule (IFR) effective on November 2, 2020.² Pursuant to the IFR, issuers of non-grandfathered individual or group health plans are required to provide coverage, without cost sharing, for qualifying COVID-19 preventive services, including a vaccine and its administration, from out-of-network providers during the COVID-19 PHE.

¹ See 42 U.S.C. § 300gg-13.

² 85 FR 71142.

In December 2020, the ACIP made interim recommendations for the use of two vaccines for COVID-19.³

On January 27, 2021, pursuant to ORS 743A.264, the Oregon Health Authority issued the public health director's declaration (OHA public health declaration) stating that there exists a COVID-19 disease outbreak and that vaccination is necessary to prevent the spread of COVID-19. ORS 743A.264 prohibits health benefit plans from restricting coverage for the cost of necessary treatments, vaccines, immunizing agents, pharmaceutical agents, medical supplies or other prophylactic measures approved by the U.S. Food and Drug Administration that the public health director deems necessary to prevent the spread of the disease.

Guidance for health benefit plans

The Division of Financial Regulation of the Department of Consumer and Business Services issues the following guidance to insurers regarding the division's expectations for coverage in accordance with ORS 743A.264, the federal CARES Act, and the March 5 voluntary agreement:

- **Coverage required** – All health benefit plans (including grandfathered health benefit plans) in Oregon must provide coverage for approved COVID-19 vaccines and their administration in accordance with this bulletin. The requirement to cover vaccines and their administration under this bulletin is in addition to any coverage requirements that may apply to a health benefit plan under federal law.
- **Network Restrictions** – A health benefit plan may not restrict coverage for an approved COVID-19 vaccine and its administration to in-network providers. Health benefit plans must provide coverage for a COVID-19 vaccine in accordance with this bulletin, regardless of whether an enrollee receives the vaccine from an in-network or out-of-network provider. The division encourages health benefit plans to be proactive in including approved vaccinators in their networks and to update operational systems to accept and process out of network vaccine claims.
- **Cost sharing** – A health benefit plan may not impose any cost sharing requirements, such as a copay, coinsurance, or deductible, on the coverage required under this bulletin. Coverage for COVID-19 vaccines and their administration is to be provided without cost sharing both in and out of network.
- **Prior authorization and utilization review** – A health benefit plan may not require prior authorization or apply any other form of utilization review to the coverage of COVID-19 vaccines and their administration.
- **All other coverage limits prohibited** – A health benefit plan may not impose any other limitation on the coverage required by this bulletin that serves, in form or in substance, to prevent an enrollee from receiving a COVID-19 vaccine at no out-of-pocket cost.

³ See ACIP recommendations found at this URL: <https://www.cdc.gov/vaccines/hcp/acip-recs/vacc-specific/covid-19.html>.

This bulletin is retroactive to January 27, 2021, the date of the OHA declaration. The division intends to issue additional guidance on expectations for health insurers and health benefit plans related to COVID-19 vaccination as the distribution process evolves.

Dated this 4th day of February, 2021 at Salem, Oregon.



Andrew R. Stolfi
Insurance Commissioner and Director
Department of Consumer and Business Services

2/4/2021

Date