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COVID-19: Developments in Employee Benefits

Insight — March 11, 2020

Health Plan Coverage of COVID-19. Colorado has become the latest state to instruct insured health plans to cover COVID-19 testing and benefits (such as office visits) at no cost to the member. The Colorado guidance is available [here](#). The directive also encourages promotion of telemedicine programs and easing restrictions on prescription refills. Other states that have similar directives include California, Oregon, Washington, and New York. Employers sponsoring insured health plans in these states and Colorado should work with their insurer to confirm that these requirements are being met.

The IRS also clarified in Notice 2020-15 that the cost of testing for or treatment of COVID-19 will not be disqualifying coverage with respect to health savings account (HSA) eligibility for individuals covered by a high deductible health plan (HDHP).

While employers that sponsor *self-funded* health plans are not impacted by state directives on insured plans, those employers might want to consider making similar benefits available to their plan participants.

Paid-Leave for COVID-19. Colorado has also directed its agencies to engage in rulemaking to ensure that workers in certain critical fields (such as health care, food handling, hospitality, and child care) have access to paid sick leave if the workers exhibit flu-like symptoms and/or are awaiting COVID-19 test results. More details are [here](#). The state is also exploring using resources such as unemployment insurance to cover individuals who miss work due to testing positive for COVID-19 and lack paid leave through the employer. Other states, and potentially the federal government, may provide similar directives and initiatives.

HIPAA Considerations. As a reminder, employer-sponsored health plans, as covered entities, and business associates are subject to restrictions under HIPAA with respect to protected health information. A bulletin from HHS provides background on HIPAA privacy and security rules as it relates to COVID-19, available [here](#).

This is a quickly evolving area. Stay tuned for more information.

If you have questions on these directives and/or other employee benefit implications, please contact a member of the Benefits Law Group.

We encourage you to visit Holland & Hart's Coronavirus Resource Site, a consolidated informational resource offering practical guidelines and proactive solutions to help companies protect their business interests and their workforce. The dynamic Resource Site is regularly refreshed with new

topics and updates as the COVID-19 outbreak and the legal and regulatory responses continue to evolve. Sign up to receive updates and for upcoming webinars.

Holland & Hart has created a multi-disciplinary Coronavirus Task Force to advise clients on the business and legal implications of responding to COVID-19. With practitioners specializing in a broad spectrum of service areas and industries, including labor and employment, healthcare, corporate governance, capital markets and securities, litigation, and environmental, the firm's Coronavirus Task Force provides clients with coordinated guidance and counseling to proactively address the business challenges and legal risks posed by COVID-19 to protect your work force and your business. Watch for a link to our Coronavirus Resource Page coming soon.

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