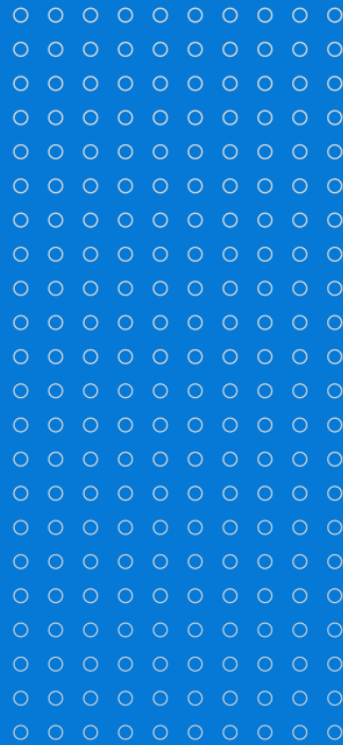


Beyond COVID-19: Vaccines and the Workplace

COVID-19 Vaccines and Employer Group Health Plans

January 5, 2021



In December the FDA approved Pfizer and Moderna's COVID-19 vaccines for use in the United States, with industry observers expecting additional vaccines soon to follow. Although widespread distribution of the vaccines won't likely occur until the second quarter of 2021,¹ it's important for organizations to understand that implications of the COVID-19 vaccine on employer health plans. Here are some questions and answers addressing the COVID vaccines' impact on employer health plans.

Are COVID-19 vaccines required to be required by health plans, including employer health plans? The CARES Act requires **all non-grandfathered health plans** to cover a COVID-19 vaccine or other preventive measure, within 15 business days of recommendation by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention or the US Preventive Services Task Force. This requirement applies to ERISA plans, non-ERISA plans, fully-insured and self-insured plans.

How will I know when a COVID-19 vaccine has been recommended? HUB, insurance carriers, and third-party administrators are all keeping a close eye these federal agencies to determine when plans have to cover these items. The recommendations will likely evolve as more vaccines are approved and additional supply becomes available. HUB will keep an eye on the developments and provide periodic updates.

Will health plan be required to pay for the vaccine? At least initially, the federal government is picking up the cost of the vaccine itself, however vaccination providers will be able to charge an administration fee for giving the shot to someone. The health plan must cover the office visit/administration fee associated with receiving the vaccine, if the primary purpose of the visit is to get the vaccine. Health plans are not required to pay the office visit fee in the event this is billed separately from the vaccine, however this seems unlikely.

Do employers need to amend their plans once a vaccine is approved? This depends on what, if anything, is currently included in your plan documentation on the vaccine. It is unlikely (though not impossible) that plans currently in their 2020 plan years contain the language required to address the plan's responsibility for vaccines. Certificates of Coverage and Benefits Booklets for calendar year plans won't become available until after January 2021 and therefore may contain the required vaccine language. Plans that do not contain the required language will need to be amended. Plan amendments that do not require changes to the Summary of Benefits and Coverage and are not material modifications or reductions must be made within 210 days from the end of the plan year. However, employees will likely have questions as soon as the vaccine is approved, so employers may want to consider communicating that the plan will cover the costs (as described in these FAQs) sooner than that.

Are health plans required to pay the office visit/administration associated with receiving the vaccine at both in-network and out-of-network providers? Any recommended vaccine or other preventive measure must be covered at both in-network and out-of-network providers. Just like COVID testing, in-network providers must be paid the negotiated in-network rates. Out-of-network providers must be reimbursed an amount that is reasonable, as determined in comparison to prevailing market rates for such service. Payment amounts will be considered reasonable, if the provider is paid the amount that would be paid under Medicare for the item or service.

¹NPR.org, "[What You Need To Know As The First COVID-19 Vaccine Heads Your Way](#)," Dec. 12, 2020.

If the vaccine is received at an out of network provider, will participants be responsible for any costs? While plans must reimburse out-of-network providers an amount that is reasonable, out-of-network providers are not required to accept this amount in full satisfaction of the billed charges. Plan participants may, at the discretion of the medical provider, be responsible for the balance of the bill (I.e., “balance billing”).

How would balance billing work when participant is vaccinated at an out-of-network provider? Assume the out-of-network provider bills \$100 for the office visit/administration associated with providing the vaccine. Then assume the plan pays \$40, which the plan believes is reasonable based on prevailing market rates for such service. The provider may then bill the participant for the remaining unpaid balance of \$60. The participant would be responsible for making this payment.

Will employees who previously waived health coverage under employer plans be allowed to enroll once a vaccine is approved? Elections under an employer sponsored cafeteria plan are irrevocable during the plan year unless the employee experiences a qualifying event as defined by the plan. Typical qualifying events include marriage and birth or adoption of a child. Approval of a vaccine is not a qualifying event. Under IRS Notice 2020-29, employers could choose to allow changes to plan elections due to the pandemic without an actual event, however this only applies to calendar year 2020.

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