



## SB 510 EXPANDS OBLIGATION OF HEALTH PLANS TO COVER COVID-19 TESTING

On October 8, 2021, Governor Newsom signed into law SB 510 (Chapter 729, Statutes of 2021), a bill which requires health insurance carriers to cover the costs associated with COVID-19 testing, immunization, and health care services related to testing with no cost-sharing, prior authorization, or other utilization management during and following the federal public health emergency.

While this has been true under both federal and state law for some time, SB 510 significantly expands the obligation of a fully-insured health plan to cover costs associated with COVID-19 testing. Specifically, the law clarifies that both diagnostic and screening tests must be covered.

“Diagnostic testing” is defined by the new law as any of the following:

- Testing intended to identify current or past infection and performed when a person has signs or symptoms consistent with COVID-19, or when a person is asymptomatic but has recent known or suspected exposure to SARS-CoV-2.
- Testing a person with symptoms consistent with COVID-19.
- Testing a person as a result of contact tracing efforts.
- Testing a person who indicates that they were exposed to someone with a confirmed or suspected case of COVID-19.
- Testing a person after an individualized clinical assessment by a licensed health care provider.

“Screening testing” is defined by the new law as “tests that are intended to identify people with COVID-19 who are asymptomatic and do not have known, suspected, or reported exposure to SARS-CoV-2.” The law further states that screening testing “helps to identify unknown cases so that measures can be taken to prevent further transmission.” Screening testing under the law specifically includes all of the following:

- Workers in a workplace setting.
- Students, faculty, and staff in a school setting.
- A person before or after travel.
- At home for someone who does not have symptoms associated with COVID-19 and does not have a known exposure to someone with COVID-19.

Moreover, the new law requires that the coverage without cost-sharing applies whether the member obtains testing or immunization services from an in-network provider or out-of-network.

This law goes into effect on January 1, 2022. The law contains a retroactivity provision which makes its requirements and definitions effective retroactive to the Governor’s declared State of Emergency related to the



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SARS-CoV-2 (COVID-19) pandemic on March 4, 2020. This will change the coverage and cost-sharing on potentially millions of tests already administered.

Finally, the law will require that testing and vaccines be made cost-free during future pandemics.

Senator Pan, the author of the bill has stated that with more workplaces and schools requiring proof of COVID-19 vaccinations or regular testing, the new law will ensure those costs don't go directly to employers or employees. The intent is also that workers who chose not to be vaccinated and prefer to do weekly testing are not left with the burden of the co-pay for these particular tests.

The California Association of Health Plans and others opposed the bill, arguing that making the bill retroactive is unconstitutional, that it exceeds the federal mandate for COVID-19 testing, and will result in a significant increase in costs. At present, carriers are complying with federal requirements and have not yet announced any plans with regard to how they will handle the retroactive application of the bill. As we obtain more information, we will continue to update clients.

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