



## Congress and the IRS Provide Separate COVID-19 Guidance that Addresses Payment for Diagnosis and Treatment

The U.S. government has delivered two pieces of welcome relief in the midst of the coronavirus (COVID-19) pandemic. First, the President has signed legislation that requires healthcare insurance providers to cover COVID-19 testing without charging the patient. Second, the IRS has indicated that high deductible health plans (HDHPs) will retain their qualified status even if they cover the cost of COVID-19 testing and treatment before the satisfaction of the plan deductible. This will enable individuals with health savings accounts (HSAs) to continue to make tax-deductible contributions.

### Legislative Relief for COVID-19 Testing

President Trump signed the [Families First Coronavirus Response Act](#) (the Act) on March 18, 2020, to address the many disruptions caused by the COVID-19 outbreak. One of the primary concerns addressed in this bill is the fear that those exposed to the virus might hesitate to be tested for the disease if they have to pay for such testing out of pocket. To encourage testing, the Act requires group and individual health insurance plans to provide coverage for two items.

- 1) Diagnostic testing products. This refers to federally approved products that detect the COVID-19 virus.
- 2) Items and services that are associated with the use of such a diagnostic product. Simply put, this requires health insurance plans to cover the costs of
  - a) the office visit (even if virtual),
  - b) any materials or services needed to determine whether testing is needed, and
  - c) administering the test.

Health insurance plans must provide this coverage with no cost sharing (e.g., no deductibles, copayments, or coinsurance) and with no prior authorization. The statute gives joint enforcement authority to the Secretary of Health and Human Services, the Secretary of Labor, and the Secretary of Treasury, and each of these departments has the authority to issue guidance to implement these provisions.

### IRS Relaxes HDHP Rules

To help facilitate the nation's response to the COVID-19 virus, the IRS issued [Notice 2020-15](#) on March 11. This guidance provides a green light for insurers offering HSA-compatible HDHPs to cover the cost of the COVID-19 diagnostic testing and associated treatment without application of a deductible or other cost sharing. The IRS notes that doing so will not disqualify the HDHP, so individuals covered by these plans may continue to contribute to their HSAs.

Normally, individuals can make HSA contributions only if they maintain HSA-compatible HDHPs. This means that the HDHP must meet certain requirements such as minimum deductibles and maximum out-of-pocket expenses. In general, individuals must not also be covered by a non-HDHP.

The concern that the cost of COVID-19 testing could be a barrier to seeking medical care during this outbreak led the IRS to relax current rules. The IRS states in Notice 2020-15, that

*Due to the nature of this public health emergency, and to avoid administrative delays or financial disincentives that might otherwise impede testing for and treatment of COVID-19 for participants in HDHPs, this notice provides that all medical care services received and items purchased associated with testing for and treatment of COVID-19 that are provided by a health plan without a deductible, or with a deductible below the minimum annual deductible otherwise required . . . for an HDHP, will be disregarded for purposes of determining the status of the plan as an HDHP.*

This easing of the existing HSA-compatible HDHP rules should be a welcome relief for many individuals who may be affected by the COVID-19 outbreak.

### **The Interaction of Legislative Relief and Notice 2020-15**

IRS Notice 2020-15 states that an HDHP that covers the cost of COVID-19 *testing or treatment* will still be considered an HSA-compatible HDHP—and eligible HSA owners will still be able to make tax-deductible contributions. The new federal statute, on the other hand, requires health plans to cover COVID-19 *testing* expenses, but not *treatment* expenses.

Individuals participating in HDHPs or any other type of health plan should consult the insurer regarding their costs associated with COVID-19 testing and treatment, including the potential application of any deductible or cost sharing. Watch [ascensus.com Latest News](https://ascensus.com/latest-news/) for further developments regarding the effects of the COVID-19 pandemic on both health and welfare and retirement arrangements.