



AMERICAN BENEFITS
COUNCIL

Benefits Briefing Webinar

COVID-19 Vaccine Issues for Employers

November 20, 2020, noon (12 p.m.) ET

Today's Speakers

Moderators:

Ilyse Schuman
*Senior Vice President,
Health Policy*
American Benefits
Council

Katy Johnson
*Senior Counsel,
Health Policy*
American Benefits
Council

Guest Speakers:

Jeff Wu
Deputy Director for Policy
U.S. Department of Health
and Human Services
(HHS) Centers for
Medicare and Medicaid
Services (CMS), Center
for Consumer
Information and
Insurance Oversight
(CCIIO)
*CMS's liaison to Operation
Warp Speed*

Kiahana Brooks
Special Assistant for Policy
CMS

Michelle Koltov
Health Insurance Specialist
CMS

David Mlawsky
Health Insurance Specialist
CMS

Lindsey Murtagh
Senior Policy Advisor
CCIIO

Lisa Wilson
Senior Advisor
CCIIO

Lisa Campbell
Principal
Groom Law Group

Seth Perretta
Principal
Groom Law Group

American Benefits Council

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GROOM LAW GROUP

Agenda

- **COVID-19 Vaccine IFR**
- **Operation Warp Speed**
- **Biden Administration Actions on COVID-19**
- **Status of Vaccine Development and Key Features**
- **Employer Issues to Consider**

COVID-19 Vaccine IFR

- On October 28, 2020, Tri-Agencies released an IFR on COVID-19 vaccine and testing
- IFR effective November 6 (i.e., the date of publication in the Federal Register), and Tri-agencies accepting comments until Jan. 4, 2021
- Applies to non-grandfathered plans (individual and group) and grandmothereed plans
 - does not apply to grandfathered health plans, excepted benefits, or short-term, limited-duration insurance

COVID-19 Vaccine IFR

- CARES Act requires plans and issuers to cover “**any qualifying coronavirus preventive service**” without cost-sharing by 15 business days after the designation as a preventive service by USPSTF and ACIP
 - IFR defines “qualifying coronavirus preventive services” to include an item, service, or immunization that is intended to prevent or mitigate COVID-19 and that is, with respect to the individual involved, an evidence-based item or service that has in effect a rating of A or B in the current recommendations of the USPSTF, or an immunization that has in effect a recommendation from the ACIP, *regardless of whether the immunization is recommended for routine use*

COVID-19 Vaccine IFR

- Plans and issuers must cover without cost-sharing the qualifying coronavirus preventive services, regardless of whether the service is provided by an in-network provider or an out-of-network provider
- For an out-of-network provider, the plan or issuer must reimburse the provider for the qualifying coronavirus preventive service “*in an amount that is reasonable, as determined in comparison to the prevailing market rates for such service.*”
 - the Tri-agencies provide that they will consider the amount that would be paid under Medicare for the item or service reasonable

COVID-19 IFR

- The COVID-19 vaccine *and* its administration must be covered without cost-share, *regardless of*
 - how the administration is billed, and
 - whether the vaccine requires the administration of multiple doses
- The plan or issuer would not have to reimburse the provider for the cost of the vaccine itself, if there is no cost to the provider, for example, because it is provided for free by the federal government to the provider

COVID-19 IFR

- *Sunset.* The IFR provides that the substantive aspects of the special rules for COVID-19 preventive services sunset at the end of the COVID-19 public health emergency
 - Note that coverage under the CARES Act is not limited to the duration of the PHE for COVID-19, so the general preventive services rules will continue to apply

COVID-19 IFR

- **COVID-19 Testing.** The IFR implements the requirement that providers must post the cash price for the test
 - IFR provides information on what, how, and where providers must post the information
 - Sets out how HHS will enforce this provision, including procedures for imposition of civil monetary penalties

Resources

- Interim Final Rule: <https://www.govinfo.gov/content/pkg/FR-2020-11-06/pdf/2020-24332.pdf>
- CMS Vaccine Toolkits: <https://www.cms.gov/COVIDvax>
- CDC Vaccine Playbook: https://www.cdc.gov/vaccines/imz-managers/downloads/COVID-19-Vaccination-Program-Interim_Playbook.pdf

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