



# **Bulletin 2022-01**

## **Issued January 14, 2022**

## **Effective January 15, 2022**

### **Coverage for Over-the-Counter Coronavirus Disease 2019 Tests**

#### **Introduction**

The State of Rhode Island Office of the Health Insurance Commissioner (OHIC) issues this bulletin to better ensure access to services and protect the safety and welfare of consumers during the State of Rhode Island coronavirus disease 2019 state of emergency (COVID-19 state of emergency).<sup>1</sup> This bulletin is consistent with the relevant federal subregulatory guidance regarding coverage obligations for over-the-counter COVID-19 tests (OTC COVID-19 tests) that are authorized by the United States Food and Drug Administration (FDA).<sup>2</sup> It provides guidance to commercial health insurers (insurers) subject to OHIC's jurisdiction regarding coverage for OTC COVID-19 tests.

Since June 2020, the FDA has authorized additional diagnostic tests for COVID-19, including tests that can be self-administered and self-read at home or elsewhere without the involvement of a health care provider, sometimes referred to as self-tests or at-home tests.<sup>3</sup> These COVID-19 tests are now available either by prescription or over-the-counter (without either a prescription or individualized clinical assessment by a health care provider), through pharmacies, retail stores, and online retailers.

In light of this availability, to remove financial barriers and expand access to COVID-19 testing, this guidance clarifies that individuals who purchase OTC COVID-19 tests during the COVID-19 state of emergency will be able to seek reimbursement from their insurer, with or without an order or individualized clinical assessment by an attending health care provider, as described below. Insurers must also continue to provide coverage for COVID-19 tests that are administered with a prescription or a provider's involvement.

#### **Coverage for OTC COVID-19 Tests**

OTC COVID-19 tests purchased by members on or after January 15, 2022, shall be covered by insurers without imposing any cost-sharing requirements, prior authorization, or other medical management

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1. [State of Rhode Island Executive Order 20-02](#) declared a state of emergency for the State of Rhode Island due to the dangers to health and life posed by COVID-19 was issued on March 9, 2020. The state of emergency was extended most recently through January 20, 2022 pursuant to [State of Rhode Island Executive Order 21-119](#) issued on December 22, 2021.

2. [FAQs about Affordable Care Act Implementation Part 51, Families First Coronavirus Response Act, and Coronavirus Aid, Relief, and Economic Security Act Implementation](#) is the relevant federal subregulatory guidance and was issued jointly by the United States Department of Labor, United States Department of Health and Human Services, and United States Department of the Treasury on January 10, 2022.

3. The FDA provides information on the OTC COVID-19 tests authorized for use [here](#).

requirements. Such coverage is required to remain in place for the duration of the COVID-19 state of emergency.

The following sets forth a non-exhaustive list of the requirements and situations for which the coverage of OTC COVID-19 tests shall be provided:

- Insurers must cover FDA-approved OTC COVID-19 tests, including tests obtained without the involvement of a health care provider. This coverage must be provided without imposing any cost-sharing requirements, prior authorization, or other medical management requirements.
  - Although this guidance prohibits medical management of COVID-19 diagnostic testing, insurers may act to prevent, detect, and address fraud and abuse through various permissible activities, provided that such steps do not create significant barriers for members to obtain these tests.
- Insurers may limit the number of OTC COVID-19 tests covered for each member to no less than eight<sup>4</sup> OTC COVID-19 tests per 30-day period (or per calendar month).
  - However, insurers must not limit members to a smaller number of these OTC COVID-19 tests over a shorter period (for example, limiting individuals to four OTC COVID-19 tests per 15-day period), though insurers may set more generous limits.
- Insurers may require members to submit a claim directly for reimbursement for OTC COVID-19 tests. Further, insurers can require reasonable documentation of proof of purchase<sup>5</sup> with a claim for reimbursement for the cost of an OTC COVID-19 test.
- Insurers are strongly encouraged to provide direct coverage for OTC COVID-19 tests to members by reimbursing sellers directly without requiring members to provide upfront payment and seek reimbursement. This can be accomplished by insurers establishing a network of convenient locations across Rhode Island such as pharmacies or retailers (including online) where members will be able to order tests or walk in and pick up OTC COVID-19 tests for free, rather than going through the process of having to submit claims for reimbursement.
  - In providing OTC COVID-19 tests through its direct coverage program, an insurer must take reasonable steps to ensure that members have adequate access to OTC COVID-19 tests, through an adequate number of retail locations (including both in-person and online locations).
  - If an insurer has established a direct coverage program, members may elect to purchase OTC COVID-19 tests from other retailers outside of that network. In such cases the insurer shall reimburse the member up to \$12 per individual test (or the cost of the test if less than \$12). Insurers may elect to provide more generous reimbursement up to the actual price of test.

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4. OHIC recognizes that some OTC COVID-19 tests are sold in packages containing more than one test. In applying the quantity limit of eight, insurers may count each test separately, even if multiple tests are sold in one package.

5. Examples of such documentation could include:

- Insurers requiring an attestation, such as a signature on a brief attestation document, that the OTC COVID-19 test was purchased by the member for personal use, not for employment purposes, has not been (and will not be) reimbursed by another source, and is not for resale
- Insurers requiring the universal product code for the OTC COVID-19 test to verify that the item is one for which coverage is required and/or a receipt from the seller of the test, documenting the date of purchase and the price of the OTC COVID-19 test

- If the insurer does not establish a direct coverage program of preferred pharmacies, retail stores, or online retailers, the insurer must reimburse the member for the full cost of the test.<sup>6</sup>

Finally, insurers must provide education, information resources, and support to inform enrollees as they seek OTC COVID-19 tests. Such efforts include but are not limited to:

- Guidance to support consumers' efforts to access and effectively use OTC COVID-19 tests and information to explain the differences between OTC COVID-19 tests and tests performed or ordered by a health care provider and/or processed in a laboratory
- How to obtain OTC COVID-19 tests directly from the insurer or from designated sellers that offer those tests at a lower cost, or that receive reimbursement directly from the insurer for the cost of an OTC COVID-19 test, resulting in no charges for the member at the time of purchase
- How to submit a claim for reimbursement, including electronic and paper filing options, the required information needed for such a claim, and a description of the documentation that must be submitted in order for the insurer to be able to process the claim promptly and accurately

## Conclusion

This bulletin shall take effect on January 15, 2022 and remain in full force for the duration of the COVID-19 state of emergency.

Dated at Cranston, Rhode Island this 14th day of January 2022.



Patrick M. Tighe  
Health Insurance Commissioner

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6. Insurers may limit the number of OTC COVID-19 tests covered for each member enrolled in the plan to no less than 8 tests per 30-day period (or per calendar month).