

# Regulations Update

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# DMHC COVID-19 Emergency Regulation

# DMHC Mission Statement

The California Department of Managed Health Care protects consumers' health care rights and ensures a stable health care delivery system.

# Why an emergency regulation (ER)?

- To help ensure people who need COVID-19 testing can get tested
- To provide clarity and certainty to enrollees, providers and plans

# Background

- Federal statutes regarding COVID-19 testing
  - Families First Coronavirus Response Act (FFCRA), March 18, 2020
  - Coronavirus Aid, Relief, and Economic Security Act (CARES Act), March 27, 2020
- Federal HHS, Labor and Treasury joint guidance issued June 24, 2020

# DMHC Emergency Regulation

- Coverage and access requirements
- Cost-sharing
- Financial risk for testing
- Reimbursement rates for testing

# Coverage & Access Requirements

- **Three mutually exclusive categories:**
  - Cat. 1: Enrollee has symptoms of or known/suspected exposure to COVID-19 (see federal laws)
  - Cat. 2: No symptoms or exposure, but enrollee is an "essential worker" (DMHC's emergency regulation)
  - Cat. 3: No symptoms or exposure and enrollee is not an "essential worker" (DMHC's emergency regulation)

# Coverage & Access

- **Cat.1: Symptomatic or exposed**
  - Federal statutes require coverage
  - No UM or prior authorization requirement
  - No in-network requirement



# Coverage & Access

- **Cat. 2: Asymptomatic “essential workers”**
  - Testing deemed to be medically necessary in all cases, so no UM or prior auth required or allowed
  - Enrollee must try to get appointment in-network but can go out-of-network if plan does not offer an appointment within 48 hours

# Coverage & Access

- **Cat. 3: Asymptomatic, not an “essential worker”**
- Testing deemed to be an urgent service when medically necessary for the enrollee
  - Prior authorization allowed
  - Enrollee must try to get appointment in-network. But the enrollee can go out-of-network if plan does not offer an appointment within 96 hours

# Cost-Sharing

- **Cat. 1** (symptoms/exposure): No cost-sharing allowed per federal statutes
- **Cat. 2** and **Cat. 3**: Cost-sharing allowed per existing Knox-Keene Act provisions

# Financial Risk for COVID-19 Tests

- Plans may not pass financial risk of COVID-19 testing to providers unless the providers and plan negotiated and agreed that the provider will assume the risk.

# Submission and payment of claims for COVID-19 testing

- Plan may not delay payment based on a claim the plan delegated financial risk to the provider.
- Plan may not demand "proof" that an enrollee is an essential worker-- i.e., the enrollee's statement is enough.

# Reimbursement Rates

- For **Cat. 1** enrollees (symptomatic or exposed: negotiated rate or provider's cash price if no negotiated rate. (FFCRA and CARES Act)
- **Cat. 2** and **Cat. 3**: negotiated rate if in-network, or "reasonable and customary" if out-of-network or no negotiated rate

# Effective date and duration

- Regulation took effect July 17, 2020
- Will remain in effect through May 14, 2021

# Questions?

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