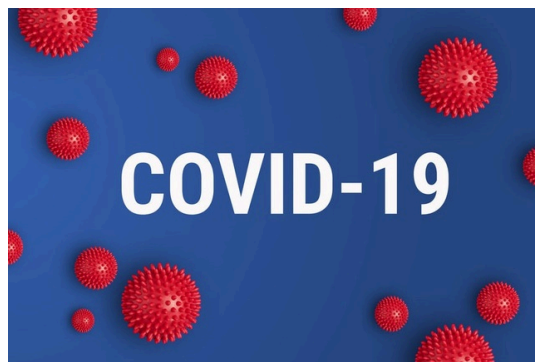


# Biden's Insurance Plan Mandate to Cover At-Home COVID-19 Tests, But Not for Employment Purposes

## Labor & Employment Law Update

By Kelly Haab-Tallitsch and Sara Zorich on January 13, 2022



President Biden announced on January 10<sup>th</sup> that the Biden-Harris Administration is requiring insurance companies and group health plans to cover the cost of over-the-counter (OTC), at-home COVID-19 tests. Beginning January 15, 2022, individuals with private health insurance coverage or covered by a group health

plan who purchase an over-the-counter COVID-19 diagnostic test authorized, cleared, or approved by the U.S. Food and Drug Administration (FDA) will be able to have those test costs covered by their plan or insurance. Insurance companies and health plans are required to cover 8 free over-the-counter at-home tests **per covered individual** per month.

In the Department of Labor(DOL) FAQs issued January 10, 2022, Q1 states, "This FAQ does not modify previous guidance\*\* addressing coverage for purposes not primarily intended for individualized diagnosis or treatment of COVID-19, including the guidance that states that plans and issuers are not required to provide coverage of testing (including an OTC COVID-19 test) that is for employment purposes."

Additionally, Q4 provides that plans and issuers can take reasonable steps to ensure an OTC COVID-19 test was purchased for the individual's own personal use, including requiring an attestation that the test was purchased for personal use and not for employment use.

\*\* The previous guidance referenced above is the DOL FAQs issued in February 2021 that states plans and issuers are required to cover COVID-19 diagnostic testing of asymptomatic individuals when the purpose of the testing is for

individualized diagnosis or treatment of COVID-19, but not for public health surveillance or employment purposes.

**The Bottom Line:** While we are waiting to find out how insurance companies will handle this, we expect they will take steps to exclude tests for employment now, even if they hadn't so far. Unfortunately employers shouldn't rely on this to help with out of pocket testing costs.

Biden's  
Insurance  
Plan  
Mandate to  
Cover At-  
Home  
COVID-19  
Tests, But  
Not for  
Employe-  
ment Purposes