



TOPIC: REIMBURSEMENT FOR OVER-THE COUNTER COVID-19 TESTS

**EXECUTIVE SUMMARY:** ON MONDAY, JANUARY 10, 2022 THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND TREASURY (THE DEPARTMENTS) ISSUED GUIDANCE THAT WILL REQUIRE MULTIEMPLOYER HEALTH PLANS TO COVER THE COST OF OVER-THE-COUNTER COVID-19 TESTS WITHOUT COST-SHARING TO PARTICIPANTS, PRIOR AUTHORIZATION, OR ANY OTHER MEDICAL MANAGEMENT REQUIREMENTS, ALTHOUGH PLANS ARE NOT REQUIRED TO COVER TESTING FOR EMPLOYMENT PURPOSES. THE GUIDANCE CONTAINS TWO LIMITED SAFE-HARBOR OPTIONS. UNDER THE FIRST SAFE HARBOR (“DIRECT COVERAGE”), PLANS THAT HAVE BOTH A DIRECT COVERAGE RELATIONSHIP WITH A PARTICIPATING PHARMACY NETWORK AND A DIRECT-TO-CONSUMER SHIPPING PROGRAM MAY LIMIT REIMBURSEMENT FOR TESTS PURCHASED FROM OUT-OF-NETWORK PROVIDERS TO THE LESSER OF \$12 PER TEST OR THE ACTUAL COST. THE SECOND SAFE-HARBOR ALLOWS PLANS TO LIMIT THE NUMBER OF TESTS PER COVERED INDIVIDUAL TO 8 TESTS PER 30-DAY PERIOD (OR CALENDAR MONTH). THE GUIDANCE TAKES EFFECT TODAY, JANUARY 15, 2022.

MULTIEMPLOYER HEALTH PLANS HAVE IDENTIFIED NUMEROUS CONCERNS WITH THE GUIDANCE AS DRAFTED, INCLUDING PLANS’ INABILITY TO TAKE ADVANTAGE OF THE DIRECT COVERAGE SAFE-HARBOR OPTION, DIFFICULTY IN ESTABLISHING DIRECT-TO-CONSUMER MAILING PROGRAMS, THE UNAVAILABILITY OF TESTS AND THE ASSOCIATED IMPACT ON THE ABILITY OF PLANS TO REMAIN IN SAFE-HARBOR STATUS, AND THE POTENTIAL FOR PRICE GOUGING AMONG OTHERS. NCCMP IS WORKING TO ENSURE THAT MULTIEMPLOYER HEALTH PLAN CONCERNS ARE IDENTIFIED WITH THE DEPARTMENTS AS QUICKLY AS POSSIBLE.

PURPOSE: INFORMATIONAL  
CATEGORY: REGULATORY  
ISSUER: NCCMP  
TARGET AUDIENCE: TRUSTEES OF AND PLAN ADVISORS TO MULTIEMPLOYER HEALTH AND WELFARE PLANS  
FOR MORE INFORMATION [Affordable Care Act Implementation FAQs Part 51](#)  
SEND COMMENTS TO: [nccmp@nccmp.org](mailto:nccmp@nccmp.org)  
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*If you have questions about the NCCMP, or about this or other issues of Multi-Elert, please contact the NCCMP, by phone at (202) 737-5315 or by e-mail at [nccmp@nccmp.org](mailto:nccmp@nccmp.org).*

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