Spring HealthFlex Mini-Summit—March 2022

Wespath
BENEFITS | INVESTMENTS

HealthFlex Summit

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Agenda

- COVID-Related Relief Highlights
- New Pharmacy Benefits Reporting Requirement
- HIPAA Training Refresher

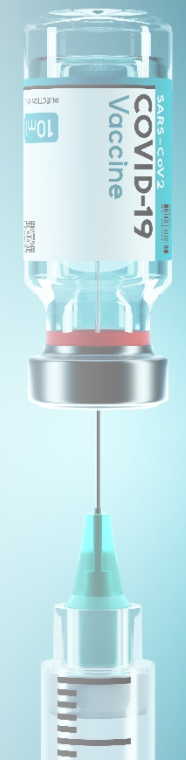
COVID-Related Relief Highlights

HHS extended the COVID emergency period to April 16, 2022

- During the emergency period, health plans are required to continue covering COVID in-office diagnostic tests at 100%
- Starting Jan. 15, health plans are required to start covering over-the-counter COVID tests during the emergency period
  - A plan can impose a limit of 8 tests per individual per 30-day period
  - A plan that provides a “direct coverage” program can impose a dollar limit of $12 per test purchased outside of the program
    - HealthFlex offers a direct coverage program through OptumRx – participants can obtain tests at no cost from Walgreens, Walmart, Sam’s Club, and Rite Aid retail pharmacies and online from OptumRx

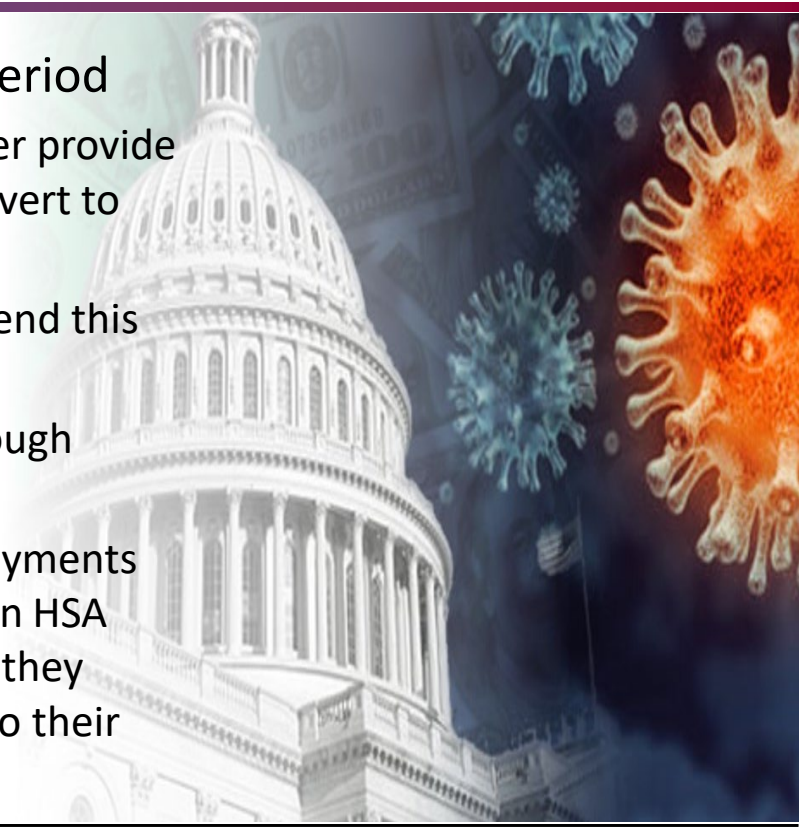
COVID-Related Relief Highlights *(continued)*

- During the emergency period, health plans, including HSA-compatible high deductible health plans, may (but are not required to) cover COVID treatment at 100%
  - HealthFlex continues to cover COVID treatment at 100%
- COVID-19 vaccine coverage rule is *not* tied to the emergency period
  - The requirement to cover vaccines at 100% is a permanent requirement because the vaccine is considered preventive care under Affordable Care Act (ACA) rules



COVID-Related Relief Highlights *(continued)*

- Telehealth rule is *not* tied to the emergency period
  - After 2021, HDHPs coupled with HSAs can no longer provide pre-deductible coverage for telehealth services (revert to normal cost sharing)
  - There are proposals with bipartisan support to extend this (potentially retroactive) or make it permanent
  - Since 2020, HealthFlex has covered telehealth through MDLIVE at 100% for all plans
  - HealthFlex moved to normal coinsurance and copayments effective March 1, 2022 (and provided individuals in HSA plans with an opportunity to pay for MDLIVE visits they had between January 1 and March 1 to avoid risk to their tax-advantaged HSA)



COVID-Related Relief Highlights *(continued)*

- Cafeteria plan rules are *not* tied to the emergency period
  - After 2021, HealthFlex can no longer allow mid-year election FSA and health plan changes (revert to normal change-in-status and special enrollment rules)
  - After 2022, HealthFlex can no longer allow:
    - unlimited carryover of unused FSA balances (revert to $570 limit for health FSA and $0 for dependent care FSA)
    - a 12-month grace period for FSA claims (revert to 2½ month limit)

New Pharmacy Benefits Reporting Requirement

The Consolidated Appropriations Act, 2021 (CAA) created a new annual reporting requirement for health plans and insurers

- CAA included a church plan exemption, but only in the section applicable to insured plans, not self-funded plans
- Unless Congress or the regulatory agencies take action to extend the exemption, self-funded church plans will be required to submit their first report in December 2022
- TPAs and PBMs are allowed to do reporting on behalf of plans, but the reporting must be by employer size and state, which is complicated for multiple employer plans
- While primarily focused on Rx data, the report also requires premium data – we may need data from plan sponsors later in 2022 to comply with this

What is HIPAA?

- Health Insurance Portability and Accountability Act of 1996 (“HIPAA”)
- Purposes of HIPAA
  - To provide greater access to health care insurance (i.e., special enrollment and nondiscrimination rules)
  - To promote standardization and efficiency in the health care industry (i.e., coding for health care transactions)
  - ***To protect the privacy of health care information (i.e., privacy and security rules)***

HIPAA Privacy & Security Rules

The HIPAA rules protect individually identifiable health information

- Privacy Rule:
  - Sets rules for how protected health information ("PHI") may be used and disclosed
  - Gives participants certain rights regarding their PHI
  - Requires notification to impacted participants and others in the event of certain breaches
- Security Rule: Requires a covered entity to maintain reasonable and appropriate administrative, technical, and physical safeguards for protecting electronic PHI ("E-PHI")

HIPAA rules are enforced by the U.S. Department of Health & Human Services ("HHS")

What is the HIPAA covered entity?

A group health plan is a “covered entity” under HIPAA, which means it is subject to HIPAA’s privacy and security rules

- HealthFlex and the Medicare Marketplace & HRA Program (Via Benefits) are covered entities under HIPAA
- HealthFlex is considered a “hybrid entity” under HIPAA because it has group health plan benefits and non-health plan benefits
  - HealthFlex’s covered entity components include only the group health care benefits, including the health care FSA and HRA (e.g., the dependent care FSA program is not part of the covered entity)

Key Parties

- A covered entity acts through its HIPAA “workforce”
  - Workforce members include all individuals at Wespath and at the plan sponsors who may have access to PHI in connection with administration of the Plans
- HIPAA “business associates” are outside individuals or entities that create, receive, maintain, or transmit PHI for a covered entity
  - Business associates are obligated by law to comply with HIPAA and must sign a detailed contract (“business associate agreement”) with the covered entity outlining obligations
  - Examples: BCBSIL, UHC, Cigna, VSP, OptumRx, Quest Diagnostics

You are part of the HIPAA workforce if you have access to PHI;
plan sponsors have very limited access to PHI, so have a very limited “workforce” role

HIPAA Protected Health Information ("PHI")

HIPAA PHI

- Information that is created, maintained, or received by a covered entity or business associate that:
  - identifies an individual (or contains enough information to reasonably identify the individual) and
  - relates to the past, present, or future health or condition of an individual, the provision of health care to an individual, or payment for the provision of health care to an individual
- Includes demographic information when tied to the Plan
- Can be maintained in any form (i.e., electronic, hard copy, oral)

Not HIPAA PHI

- Plan enrollment information in the hands of plan sponsors acting as the employer
- Health information in employment records held by plan sponsors acting as the employer
- Health information received in connection with non-health plan benefits (e.g., related to CPP or UMLifeOptions)

Uses & Disclosures of PHI: HIPAA's General Rules

- Workforce members of the Plans may use and disclose PHI for treatment, payment, and health plan operations without obtaining a participant's written authorization
  - Otherwise, to use or disclose PHI, a workforce member must:
    - have a signed authorization from the participant, *or*
    - satisfy one of HIPAA's exceptions
  - In all cases, the "minimum necessary standard" applies -- only the minimum necessary PHI may be used or disclosed for the intended purpose
- Workforce members must use adequate safeguards to protect oral, hard copy, and electronic PHI

Consequences of HIPAA Violations

- The Plan must provide notice of a breach to impacted participants, HHS, and in certain circumstances, the media within 60 days of discovery
- Monetary and criminal penalties with amounts varying based on the level of culpability
- Reputational damage
- Increased likelihood of future audits by HHS
- HIPAA requires the plan sponsor to appropriately discipline any employee who violates HIPAA

HIPAA Training Next Steps

- We will be sending you a more detailed version of HIPAA training slides to read
- Please read the slides on your own and let us know if you have any questions

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