

Insights: Legal Alert

Financial Protection for Health Care Providers and Health Care Insurance for Workers

March 27, 2020

Written by John R. Neeleman and Gwendolyn C. Payton

Please note: The below information may require updating, including additional clarification, as the COVID-19 pandemic continues to develop. Please monitor our main [COVID-19 Task Force](#) page and/or your email for updates.

Part II - Access to Health Care for COVID-19 Patients

Subpart A—Coverage of Testing and Preventive Services

SEC. 3201. Coverage of Diagnostic Testing for COVID-19.

Health plans and health insurers must cover any “qualifying coronavirus preventive service” for their members and insureds. “Qualifying coronavirus preventive service” means an item, service, or immunization that is intended to prevent or mitigate” Covid-19 that is “an evidence-based item or service” as determined by receipt of an “A” or “B” rating from the United States Preventive Services Task Force, or an immunization recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention with respect to the individual involved.

A health plan or health insurer must reimburse health care providers for qualifying coronavirus preventive services provided to the plan's or insurer's members or insureds as follows: Negotiated rates apply if there is a contract between the health plan or insurer and the provider. If there is no contract, the health plan or insurer “must reimburse the provider in an amount that equals the cash price for such service as listed by the provider on a public internet website, or such plan or issuer may negotiate a rate with such provider for less than such cash price.”

Providers are required to post the cash price for qualifying coronavirus preventive services on a public internet web site. If they fail to do so, they are subject to a penalty of \$300 per day while the violation is ongoing without a corrective action plan.

SEC. 3215. Limitation on Liability for Volunteer Health Care Professionals During COVID-19 Emergency Response.



Health care professionals are immune from malpractice liability for “an act or omission of the professional in the provision of health care services during the public health emergency with respect to COVID-19 declared by the Secretary of Health and Human Services” if the professional is providing health care services in response to such public health emergency, as a volunteer. In order for such immunity to attach, the act or omission must occur within the scope of the professional's license, registration, or certification of the volunteer, as defined by the State of licensure. Such immunity does not extend to a professional's willful or criminal misconduct, gross negligence, or reckless misconduct.

Subtitle C—Business Provisions

SEC. 2301. Employee Retention Credit for Employers Subject to Closure Due to COVID-19.

An eligible employer's “qualified health plan expenses” may be included in “qualified wages” against which a 50 percent credit is allowed against applicable employment taxes for each calendar quarter.