Pathways to Coverage for COVID-19 Testing and Treatment for Adults in Medicaid Expansion and Non-Expansion States

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About Manatt Health

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Context Setting

- States are actively pursuing various coverage options for uninsured individuals who need COVID-19 testing and treatment

- Available coverage options vary based on an individual’s income and immigration status and whether a state has expanded Medicaid or not

- In addition to existing Medicaid State Plan and Marketplace coverage options, Congress enacted new options for providing coverage for the uninsured for COVID-19: (1) testing-only; and (2) testing and treatment

- Federal legislation also includes other targeted funding to help support health care providers responding to the pandemic
Summary of Relevant Legislation and Funding Streams

Legislation in March and April 2020 created new opportunities for providers to be paid for COVID-19 testing and treatment via new Medicaid eligibility groups and new funding streams. Below is a high-level summary of the applicable mechanisms made available by each piece of legislation*

- **Families First Coronavirus Response Act (FFCRA)**
  - New Optional Medicaid Eligibility Group
    - Makes available a new optional “COVID-19 Testing” Medicaid eligibility group

- **Coronavirus Aid, Relief, and Economic Security Act (CARES Act)**
  - Provider Relief Fund ($100B)
    - Funding to providers for lost revenues. An unspecified portion of the fund will be used to reimburse providers for testing and treatment for the uninsured, at Medicare rates
  - Coronavirus Relief Fund ($150B)
    - Funding to states, local governments and tribes, a portion of which may be used to cover COVID-19 testing and treatment

- **“Stimulus 3.5” (Paycheck Protection Program and Health Care Enhancement Act)**
  - Provider Relief Fund ($75B)
    - Funding to providers for lost revenues. Details about distribution of this new portion of the fund are TBD
  - COVID-19 Testing and Treatment Fund ($25B)
    - Funding for COVID-19 testing and treatment. $11B must be disbursed to states/localities and up to $1B must be used to cover testing and treatment of the uninsured

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*Not a comprehensive summary of the provisions or funding included in each bill*
Optional Medicaid Eligibility Group for COVID-19 Testing

- The Families First Coronavirus Response Act (FFCRA) created a new optional “COVID-19 Testing” Medicaid Eligibility Group
  - States may use the Medicaid Disaster State Plan Amendment (SPA) template to elect an optional Medicaid eligibility group to provide COVID-19 testing and testing-related services for uninsured individuals, without regard to income and without cost sharing, during the public health emergency
  - Uninsured individuals include those who are not enrolled in other commercial or federal health care programs
  - Regular Medicaid residency and immigration rules apply
  - Medical assistance and administrative costs are matched at 100% Federal Medical Assistance Percentage (FMAP)
  - Coverage may be effective as of March 18
  - The CARES Act amended the group to ensure that uninsured individuals in non-expansion states could be eligible for this group
Funding for COVID-19 Testing

Funding for COVID-19 Testing and Related Services

- **$1 Billion FFCRA Relief Fund**
  - Funding to be used to pay claims for providers for reimbursement of testing and testing-related services for uninsured individuals
  - The Health Resources and Services Administration (HRSA) will distribute this funding through a claims-based system directly to registered providers, paid at Medicare rates

- **$25 billion “COVID-19 Testing Fund” (“Stimulus 3.5”)**
  - Up to $1 billion of the fund must be used to pay claims to providers for reimbursement of testing and testing-related services for uninsured individuals; details have not yet been released about how this funding will be distributed, but it is likely to follow the HRSA approach above
  - At least $11B is available to states/localities to support testing and testing-related needs
Funding for COVID-19 Testing and Treatment

Provider Relief Fund

- The CARES Act established a $100B fund to reimburse eligible health care providers for expenses or lost revenue attributable to COVID-19, including related to testing and treatment
  - An unspecified portion of the fund will be earmarked for an “Uninsured Relief Fund” that HRSA will administer to reimburse providers for testing and treatment, at Medicare rates
  - $50B of the fund to be distributed based on net patient revenues in 2018
  - $12B for “high-impact” areas (i.e., targeted distributions to hospitals in areas that have been particularly affected by COVID-19)
  - $10B for rural providers; $400M for Indian Health Services; and an additional, unspecified allocation for Medicaid only providers
- “CARES Act 3.5” appropriates an additional $75B to the Provider Relief Fund
  - HHS has not yet announced how that funding will be distributed, and whether any portion will support uninsured testing/treatment

Coronavirus Relief Fund

- The CARES Act established a $150B fund to states, tribal governments and local governments. Key features include:
  - Funding is distributed by the Treasury, largely in proportion to state population (with a floor of $1.25B per state)
  - Local governments with populations of 500,000 or more may receive up to 45% of state allocation
  - There are few restrictions on use of funding—may be used to support COVID-19 testing and treatment – but many demands on the fund
Pathways to Coverage for COVID-19 Testing and Treatment for Adults: Medicaid Expansion States

### Income below 138% FPL

- **Citizen or lawful immigrant and not subject to five-year bar**
  - Eligible for Medicaid\(^1\); No co-pays for COVID testing and treatment
  - Emergency Medicaid for emergency COVID-19 testing and treatment\(^2\)
  - Enroll in Marketplace coverage, if eligible for special enrollment period (only for lawful immigrants subject to five-year bar)
  - Alternate testing and treatment options

- **Lawful immigrant subject to five-year bar\(^2\) OR undocumented**
  - Testing
  - Testing and/or treatment
  - Alternate testing and treatment options

### Income above 138% FPL

**(or higher in states with higher Medicaid eligibility levels for its adults)**

- **Citizen or lawful immigrant and not subject to five-year bar**
  - Implement time-limited expansion for Medicaid coverage above 138% (via SPA for full benefits or via 1115 waiver for limited coverage*)
  - Enroll in Marketplace coverage if eligible for special enrollment period
  - Alternate testing and treatment options

- **Lawful immigrant subject to five-year bar\(^2\) OR undocumented**
  - Testing
  - Testing and/or treatment
  - Alternate testing and treatment options

*Not approved by CMS for any states to date

**Notes:**
- \(^1\) A very small subset of immigrants who enroll in Medicaid for non-emergency coverage may be impacted by public charge rules. Most immigrants who are eligible for Medicaid are not subject to public charge determinations.
- \(^2\) States have the option to provide Medicaid coverage to pregnant women and children who are subject to the five-year bar; public charge determinations do not consider Medicaid benefits used by pregnant women and children.
- \(^3\) Requires state to revise Emergency Medicaid policies to cover COVID-19 emergency testing and treatment; some states may have concerns about doing so if an individual is not in acute distress, but several states (MA, MI, NY, WA) have defined testing and treatment for symptoms of COVID-19 as emergency services within their emergency Medicaid programs.
Pathways to Coverage for COVID-19 Testing and Treatment for Adults:
Medicaid Non-Expansion States

Income below non-expansion state’s Medicaid eligibility levels

- Citizen or lawful immigrant and not subject to five-year bar
  - Eligible for Medicaid; No co-pays for COVID testing and treatment
  - Emergency Medicaid for emergency COVID-19 testing and treatment
  - Enroll in Marketplace coverage if eligible for special enrollment period (only for lawful immigrants subject to five-year bar)
  - Alternate testing and treatment options

- Lawful immigrant subject to five-year bar or undocumented
  - Testing and/or treatment

Income above state’s Medicaid eligibility levels

- Citizen or lawful immigrant not subject to five-year bar
  - Implement time-limited Medicaid expansion coverage (via SPA for full benefits or 1115 waiver for limited coverage*)
  - Enroll in Marketplace coverage, if eligible for special enrollment period
  - Alternate testing and treatment options

- Lawful immigrant subject to five-year bar or undocumented
  - Enroll in Marketplace coverage if eligible for special enrollment period (only for lawful immigrants subject to five-year bar)
  - Alternate testing and treatment options

Notes:
1. A very small subset of immigrants who enroll in Medicaid for non-emergency coverage may be impacted by public charge rules. Most immigrants who are eligible for Medicaid are not subject to public charge determinations.
2. States have the option to provide Medicaid coverage to pregnant women and children who are subject to the five-year bar; public charge determinations do not consider Medicaid benefits used by pregnant women and children.
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4. Not approved by CMS for any states to date
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