



OFFICE OF
INSURANCE COMMISSIONER

March 6, 2020

Charles P. Rettig, Commissioner
Internal Revenue Service
1111 Constitution Avenue Northwest
Washington D.C. 20224

Re: Coronavirus Disease 2019 (COVID-19) and health savings account qualified high deductible health plans

Dear Commissioner Rettig,

I write as the chief insurance regulator for the state of Washington. As I'm sure you are aware, Washington state is experiencing a serious outbreak of coronavirus disease 2019 (COVID-19). As of today, there are seventy-nine confirmed cases in our state, and eleven people have lost their lives to the virus. Our state Department of Health has welcomed extensive support from the United States Department of Health and Human Services and its Centers for Disease Control and Prevention (CDC) in our goal to slow the spread of the virus. In response to this public health crisis, Governor Inslee has declared a state of emergency.

On March 5, 2020, pursuant to my emergency powers as Insurance Commissioner, I issued an order to Washington state health insurers requiring them to waive copays and deductibles for COVID-19 testing for all enrollees who meet the CDC criteria for testing. Cost sharing can present a significant barrier, especially this early in the year when most families have not yet satisfied their health plan deductibles. I issued the order because I am gravely concerned that individuals who may be infected with COVID-19 might delay, or even avoid, testing due to the upfront costs. But my authority extends only to health insurers regulated by my office, who insure approximately one million Washingtonians.

As you know, people enrolled in a high deductible health plan (HDHP) with a qualifying health savings account (HSA) have significantly higher deductibles than those enrolled in the traditional preferred provider organization or health maintenance organization health plans. I'm sure you agree that we must reduce financial barriers for these individuals and families as well. To accomplish this, I am asking you to consider issuing Internal Revenue Service (IRS) guidance that will remove this barrier for people with HDHP's with qualifying HSAs.

OFFICE OF INSURANCE COMMISSIONER


Charles P. Rettig, Commissioner
Internal Revenue Service
March 6, 2020
Page2

Specifically, I urge you to issue guidance determining that COVID-19 testing and the associated provider visit be considered “preventive care” under section 223 of the Internal Revenue Code (IRC)¹. Clear IRS guidance reassuring insurers in Washington state, and across the country, that first dollar coverage of COVID-19 testing and the associated provider visit can be provided without a deductible while maintaining IRS-qualified HDHP status would be ideal.

COVID-19 testing meets several principles that have supported your prior determinations, including the relatively low cost of the services, the clinical evidence supporting its use, and the value of preventing exacerbation or secondary conditions that would require significantly higher cost treatment. And, in the past, the IRS has implicitly acknowledged that it has both the authority and flexibility to work with state partners to protect individuals and businesses, when state requirements imposed on insurance carriers created a possible risk that HDHPs may be negatively impacted. IRS Notice 2018-12.

The spread of COVID-19 has created an urgent need for state governments across the country. We desperately need every flexibility the federal government can provide in our efforts to stem the spread of the virus, and to remove barriers to care for as many people as possible. I hope you will seriously consider my request, and I look forward to productive discussions on this topic as the federal government continues to bring its expertise and support to support our country in this public health emergency.

Sincerely,



Mike Kreidler
Insurance Commissioner

LETTER SENT ELECTRONICALLY

¹ See IRS Notice 2004-23 – Providing a safe harbor for preventive care benefits by a HDHP without satisfying the minimum deductible under section 223(c)(2) and defining preventive care to include Infectious Disease Screening.

