

Employer guide to COVID-19 workplace regulations



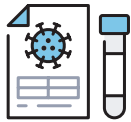
This is the most recent information we have related to COVID-19 workplace regulations. We'll continue to update this document as new guidance is released from federal and state government.



What you need to know about the President's workplace vaccine requirements

President Biden issued COVID-19 vaccine mandates in his *Path Out of the Pandemic* action plan. Below are some key points of the plan:

- **Per the direction of the Occupational Safety and Health Administration, employers: with 100 or more employees must take the below steps to ensure employee safety.**
 - These employers must establish, implement and enforce a written mandatory vaccination policy that requires each employee to be fully vaccinated against COVID-19.
 - Or they should implement a policy that requires unvaccinated employees be tested at least once every 7 days and wear a face covering.
 - Tests must be molecular or antigen diagnostic tests that are FDA authorized or approved and cannot be both self-administered and self-read unless observed by a third party (e.g. employer or a provider).
 - The cost of testing does not need to be paid for by the employer. Employees may use health savings account to pay for the test.
 - Employers must provide paid time and sick leave for vaccination and post-vaccination recovery from side effects.
 - The enforcement of these requirements is temporarily delayed due to ongoing litigation, but employers may choose to voluntarily follow them.
 - For more details, contact your account representative.
- **Federal contractors:** Guidance by the Safer Federal Workforce Task Force applies to all covered contractor employees, whether they are full-time or part-time employees and includes employees of covered contractors.
 - Employees of certain federal contractors must be fully vaccinated with no testing alternative, and they must provide proof of vaccination. Timing of when a covered contractor must be vaccinated will depend on their contract.
 - Guidance from the Centers for Disease Control and Prevention relating to masking and physical distance must be enforced while in a covered contractor workplace. The timing of this compliance being added to contracts will depend on the contract.
- **Medical staff are required to be vaccinated to participate with Medicare and Medicaid programs.** Further guidance is expected from the Centers for Medicare and Medicaid Services that will explain the details around this requirement.
 - The list includes but is not limited to hospitals, dialysis facilities, ambulatory surgical centers, and home health agencies.
- **At-home tests** will be sold at-cost through December 2021 by Walmart, Amazon, and Kroger, which Medicaid must also cover for beneficiaries.
- **Additional measures:**
 - The plan also includes many other initiatives such as access to booster shots, expanding access to testing and increasing support for hospitals.



What you need to know about vaccination reporting

The U.S. Department of Health and Human Services reviewed the HIPAA Privacy rule and has said that inquiries such as asking customers if they have received a COVID-19 vaccine or requiring a workforce member to disclose their vaccination status are considered allowable.

HHS also confirmed that covered entities generally can't disclose an individual's protected health information (PHI) to employers. However, they also state that a covered hospital is permitted to disclose PHI relating to an individual's vaccination status to the individual's employer if certain conditions are met. This includes that the hospital is "providing the health care service to the individual at the request of the individual's employer or as a member of the employer's workforce" and "the employer needs the findings in order to comply with its obligations under the legal authorities of OSHA" or other law.



What you need to know about incentives to employees for vaccination

The departments of Health and Human Services, Labor and Treasury announced that group health plans can offer participants a premium discount or cost-share savings for receiving a COVID-19 vaccine. Incentives must meet criteria for activity-only wellness programs, including:

- Eligibility must be open to employees at least once per year
- Reward (inclusive of all health-contingent wellness programs) does not exceed 30% of the total cost of coverage
- Reasonably designed to promote health or wellness
- Available to all similarly situated individuals, and allow a reasonable alternative standard to receive the reward
- All terms of the program and the reasonable alternative standard must be disclosed

Premium discounts for receiving a vaccine would not be considered in determining affordability for employer mandate purposes.

Note: Given the specific requirements imposed by the regulations, Blue Cross is unable to administer a vaccine incentive program on behalf of employers at this time.



What you need to know about workplace testing

Blue Cross does not cover the cost of workplace or screening COVID-19 tests – also called routine testing. This includes things like:

- Routine public health testing
- Testing for participation in sports or the ability to travel
- Testing for admission to the armed services, schools, workplaces or residential facilities. This includes any testing required as a result of the government regulations.

Blue Cross and BCN do not have riders for routine testing available. ASC customers can contact their account representative if they wish to discuss options to pay for workplace testing

As a reminder, Blue Cross will cover the cost of member COVID-19 testing that:

- Is administered by a qualified health professional who determines testing is appropriate based on their medical opinion through an individualized clinical assessment (for example, a doctor's appointment or meeting with a qualified health professional).
- The test has received FDA approval, emergency use authorization or falls within one of the other categories of tests required to be covered by the Families First or CARES Acts. This includes rapid diagnostic tests and at-home diagnostic tests, as long as they meet the criteria.

We identify appropriate testing claims vs. screening/routine testing claims based on the diagnosis submitted. If it is billed as a screening diagnosis, then it will reject as not a benefit for the diagnosis reported and will be member liable. This is in accordance with the recent CMS guidance (February 2021) for health insurers.



What you need to know about the types of COVID-19 tests

There are two major groups of COVID-19 tests in use:

- **Diagnostic testing** is used to detect the presence of COVID-19 in patients. A positive result means it is very likely the patient has an active COVID-19 infection. A negative result means that the virus was not detected at the level needed to confirm infection and does not rule out infection. Two types of diagnostic tests exist:
 - **Antigen Tests:** this type of test detects specific proteins from the COVID-19 virus. These tests are often offered in a rapid (results in less than 1 hour) version and offer ~90% accuracy.
 - **Polymerase Chain Reaction (PCR) or Nucleic Acid Amplification (NAAT) Tests:** this test analyzes a sample to identify genetic material from COVID-19. Results from these tests typically take ~1 day and offer >96% accuracy.
- **Antibody testing** is used to detect antibodies against COVID-19 in the blood and provides evidence that the patient has already been exposed to the virus. Antibody testing alone is not recommended for a COVID-19 diagnosis or to indicate the lack of an active infection which could exist even if antibodies are present.



What you need to know about alternative testing options*

Quest Diagnostics has developed three options for return-to-work testing for employers.

- Symptomatic testing only
 - Ideal for work sites that require a small number of individuals be on-site.
- Bulk supplies for workplace testing
 - Ideal for work sites that require a large number of individuals to be on-site regularly or for one-time large on-site meetings
- Ongoing workplace testing
 - Ideal for work sites that require a large number of individuals to be on-site and for employers who do not have the capacity to distribute kits on-site.

Contact your Quest representative or email PopulationHealth@QuestDiagnostics.com

Some major pharmacy chains and independent vendors also have employer testing programs:*

CVS

[Return Ready™ for workplaces | CVS Health](#)

Kroger

[Kroger Health Launches Employer-Focused COVID-19 Testing Program \(prnewswire.com\)](#)
[COVIDCare Plus Request Form | Kroger Health](#)

Walgreens

[Walgreens Test & Protect™ | Healthcare Providers | Walgreens](#)
[Walgreens Launches Walgreens Test & Protect Program™ to Aid Businesses' COVID-19 Strategies | Walgreens Newsroom](#)

For more information about the possibility of employer testing help through Walgreens, email allison.pellar@walgreens.com

RapidBio

[Rapid Test Results for Safe Working Environments](#)

myLABBOX

[Remote, at-home and managed testing programs for all your needs](#)

**Details about testing programs and options are informational only. Blue Cross Blue Shield of Michigan does not endorse or guarantee any of these options.*



What you need to know about lost vaccination cards or information

If your employees don't remember which vaccine they received, when they received it or can't find their vaccine card, they can reach out to their physician, local health department or go to the [Michigan Care Improvement Registry](#).

Michigan residents, who are 18 and older and received their immunization in the state of Michigan, can also go to the MDHHS website – the Michigan Immunization Portal – to obtain an online copy of their vaccination record.

Also, if people enrolled in v-safe or VaxText after their first vaccine dose, they can access their vaccination information using those tools.

This document is intended to provide an update on the most up-to-date regulations of potential changes and issues related to the future regulatory environment for health care. This document is to be used as an educational tool only -it is not intended to provide predictions of future outcomes, comprehensive implications, or to impart tax or legal advice.



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