

# Frequently Asked Questions: COVID-19 Testing

**Dec. 17, 2020**

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## Background

The Office of the Insurance Commissioner (OIC) issued Frequently Asked Questions guidance related to coverage of COVID-19 testing to carriers on July 20, 2020. OIC is providing additional COVID-19 testing guidance to health carriers related to implementation of §6001 of the Families First Coronavirus Response Act (FFCRA), as amended by §3201 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and §3202 of the CARES Act related to COVID-19 testing. This guidance is informed by tri-agency guidance issued by the Department of Health and Human Services, the Department of Labor and Treasury on [April 11, 2020](#) and [June 23, 2020](#).

Given the surge in cases and broad community spread of COVID-19 in Washington state and greater availability of testing supplies, including new antigen testing, the Washington State Department of Health and Governor Inslee have a goal of increased COVID-19 testing in Washington state. The increased COVID-19 rates in Washington state present great personal risk to Washingtonians and those caring for them, and slows the state's economic recovery.

At present, there are three types of COVID-19 tests:

1. Nucleic Acid Amplification tests, frequently called PCR (Polymerase Chain Reaction) tests, look for the presence of the unique RNA of COVID-19 virus.
2. Antigen tests look for a unique part of COVID-19 virus, such as a specific protein on one of the unique COVID-19 spikes.
3. Antibody tests (also known as serology tests) look for presence of antibodies in a patient's immune system that recognize and may fight off the COVID-19 virus.

While the FFCRA and CARES Act set forth the carrier coverage requirements for all three of the above COVID-19 tests, this FAQ addresses only coverage expectations in the context of COVID-19 PCR and antigen testing that is appropriate to detect or diagnose COVID-19 and which constitute "in-vitro diagnostic tests" described in section 6001(a)(1) of the FFCRA, as amended by section 3201 of the CARES Act.

## Questions

### **Question 1**

Can a carrier deny or otherwise apply medical necessity or other medical management criteria to COVID-19 testing when the testing has been determined to be medically appropriate for an individual, as determined by an attending provider<sup>1</sup> in accordance with current accepted standards of medical practice, including guidance issued by the Washington State Department of Health (DOH)?

### **Response**

No. The June 23, 2020 tri-agency FFCRA/CARES Act guidance, provides that for the duration of the federal state of emergency, carriers may not impose any medical necessity or other medical management criteria to COVID-19 testing when the testing has been determined to be medically appropriate for an individual by an attending provider. Similarly, for the duration of Governor Inslee's COVID-19 Emergency Proclamation, carriers must cover PCR and Antigen testing and the administration of such tests without cost-sharing where an attending provider has determined the test is medically appropriate for an enrollee. Providers are expected to act in accordance with accepted standards of medical practice. As noted in the response to Question 6 in the June 23, 2020 tri-agency FFCRA/CARES Act guidance, those standards may include guidance issued by the CDC, as well as state, tribal and local health departments. Therefore, it is appropriate for providers to rely on guidance issued by the DOH when determining whether diagnostic testing is appropriate for a particular individual. A carrier cannot substitute its medical judgment for the attending provider's decision to order or administer a diagnostic test – deference must be given to the judgement of the attending provider.

### **Question 2**

Can a carrier deny or otherwise apply medical necessity or other medical management criteria to COVID-19 testing when an enrollee has been identified as a close contact of a confirmed or clinically diagnosed COVID-19 case by a state, local health jurisdiction or tribal-run contact tracing program, or a health care provider?

### **Response**

No. For the duration of the federal state of emergency, and Governor Inslee's COVID-19 Emergency Proclamation, PCR and Antigen testing and the administration of such tests without cost-sharing must be covered when an attending provider has determined or been informed that an enrollee has been identified as a close contact of a confirmed or clinically diagnosed COVID-19 case by a state, local health jurisdiction or tribal-run contact tracing program, or a health care provider. Identification as a close contact by a state, local health jurisdiction or tribal-run contact tracing program shall be considered a valid basis for a provider to determine that a COVID-19 test is medically appropriate for an

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<sup>1</sup> Question 3 of the [June 23, 2020](#) tri-agency guidance defines an "attending provider" as an individual who is licensed (or otherwise authorized) under applicable law, who is acting within the scope of the provider's license (or authorization), is acting in accordance with current accepted standards of medical practice, and who is responsible for providing care to the patient. Nothing in that guidance limits the employment status of the provider or requires that a provider have an established relationship with an enrollee.

individual and constitutes grounds for coverage of COVID-19 testing without cost-sharing, prior authorization or other medical management practices.

### **Question 3**

Can a carrier deny or otherwise apply medical necessity or other medical management criteria to COVID-19 testing when a COVID-19 diagnostic test is ordered for an enrollee with recent known or suspected exposure to COVID-19?

### **Response**

No. Carriers must cover for the duration of the federal state of emergency, and Governor Inslee's COVID-19 Emergency Proclamation, PCR and Antigen testing and the administration of such tests without cost-sharing when an attending provider has determined the test is medically appropriate for the enrollee in accordance with current accepted standards of medical practice, including guidance issued by DOH. Under current accepted standards of medical practice, including DOH and CDC guidance, "suspected exposure to COVID-19" is not limited to exposure to an identifiable individual suspected of having COVID-19 but may encompass circumstances, the totality of which, cause an attending provider to determine that an individual was recently at reasonable risk of having been exposed to COVID-19.

### **Question 4**

Can a carrier deny or otherwise apply medical necessity or other medical management criteria to COVID-19 testing when a COVID-19 diagnostic test, or a series of COVID-19 diagnostic tests, ordered for an individual by an attending provider who has determined the test is medically appropriate for that individual may also serve or give the appearance of serving a secondary purpose, such as meeting a workplace health and safety requirement or recommendation.

### **Response**

No. In any case where an attending provider has determined a COVID-19 diagnostic test is medically appropriate for a particular individual, a carrier must consider the test's primary purpose to be the individualized diagnosis or treatment of COVID-19 and provide coverage for the test and the administration of the test without cost-sharing, prior authorization or other medical management practices.

### **Question 5**

Can a carrier deny or otherwise apply medical necessity or other medical management criteria to COVID-19 testing when an enrollee will be undergoing a clinical or surgical procedure in a hospital or ambulatory surgical facility, where an attending provider has determined that a COVID-19 diagnostic test is medically appropriate for a particular individual?

### **Response**

No. Carriers may not impose any medical necessity or other medical management criteria to COVID-19 testing where an attending provider has determined a COVID-19 diagnostic test is medically appropriate for a particular individual, based on current accepted standards of medical practice, including DOH and CDC guidance.