



WEST VIRGINIA INSURANCE BULLETIN

No. 20 – 15

Insurance Bulletins are issued when the Commissioner renders formal opinions, guidance or expectations on matters or issues, explains how new statutes or rules will be implemented or applied, or advises of interpretation or application of existing statutes or rules.

► COVID-19 Testing at Nursing Homes ◀

On May 11, 2020, the Insurance Commissioner issued *Emergency Order 20-EO-07*, partly in response to the Governor's *Executive Order 27-20*, mandating the testing of all individuals who reside or work in nursing homes in this State, finding that they are some of the most vulnerable in our population and any instance of the COVID-19 virus at such a facility presents a serious issue requiring immediate identification and response. In *Emergency Order 20-EO-07*, the Insurance Commissioner ordered that health insurers offering group health plans and/or individual health insurance coverage in this State must, effective March 18, 2020, provide benefits for diagnostic testing for the detection of COVID-19, and services related thereto, to the persons identified in *Executive Order 27-20* because testing of these individuals has been deemed a necessary public health and medical action by the Commissioner of BPH and State Health Officer, and mandated by the Governor of West Virginia. Further, it was ordered that said testing be provided without imposing any cost-sharing requirements including deductibles, copayments, and coinsurance, or prior authorization or other medical management requirements.

This Bulletin is issued to advise that *Emergency Order 20-EO-07* was not a one-time testing coverage mandate, is still in effect, and compliance therewith by health insurers offering group health plans and/or individual health insurance coverage in this State is still mandatory, especially in light of new guidance issued by Dr. Ayne Amjad, MD, MPH, the State Health Officer and Commissioner for the Bureau for Public Health on July 17, 2020, and the fact that the President's declared National Emergency, the public health emergency declared by the HHS Secretary, the Governor's declared State of Emergency and the Insurance Commissioner's insurance emergency declaration all remain in full effect.

The July 17, 2020 Memorandum issued by Dr. Amjad essentially provides that viral testing shall be conducted on any resident of, or healthcare personnel working in, a nursing home who has signs or symptoms of COVID-19, as well as asymptomatic residents of such facilities when there is an outbreak in a facility or exposure. On June 23, 2020, the Department of Labor (DOL), the Department of Health and Human Services (HHS), and the Department of the Treasury (collectively "Departments") issued additional formal guidance regarding implementation of the FFCRA and CARES Act. As part of that guidance, the Departments advised that while COVID-19 testing to screen for general workplace health and safety is beyond the scope of the FFCRA or CARES Act, testing of both symptomatic and asymptomatic individuals with known or suspected recent exposure may be required to be covered in addition to testing of symptomatic individuals. Additionally, the guidance recognized that nothing in the FFCRA or CARES Act prevents a state from imposing additional standards or requirements on health insurers with respect to the diagnosis or treatment of COVID-19 so long as the standards or requirements do not prevent the application of a federal requirement.

The Insurance Commissioner has determined that *Emergency Order* 20-EO-07 and the June 23, 2020, guidance by the Departments both mandate that coverage for the persons identified in Dr. Amjad's July 17, 2020 Memorandum must be covered by health insurers offering group health plans and/or individual health insurance coverage in this State without the imposition of any cost-sharing requirements including deductibles, copayments, and coinsurance, or prior authorization or other medical management requirements. This guidance is issued due to the State's urgent need to combat the public health emergency posed by COVID-19 and given the critical importance of expanding the availability of COVID-19 testing.

Issued: July 17, 2020





STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Bureau for Public Health

Bill J. Crouch
Cabinet Secretary

Ayne Amjad, MD, MPH
Commissioner & State Health Officer

MEMORANDUM

TO: West Virginia Nursing Homes and the West Virginia Health Care Association

FROM: Ayne Amjad, MD, MPH
Commissioner and State Health Officer

DATE: July 14, 2020

RE: COVID testing for Nursing Home residents and healthcare personnel

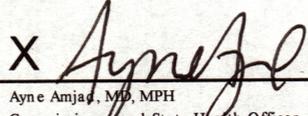
Due to growing concerns of COVID-19 outbreaks across various settings nationwide, West Virginia has been proactively testing both symptomatic and asymptomatic populations to help identify potential disease occurrence and reduce risk of spread. Our goal is to reduce risk to all populations from COVID-19.

Recent guidance published by the Centers for Disease Control and Prevention (CDC) established protocols for diagnostic testing of residents in nursing home facilities. As outlined by the CDC, viral testing shall be conducted on any resident or healthcare personnel who has signs or symptoms of COVID-19. In addition, viral testing shall be conducted on all residents and healthcare personnel if there is an outbreak in a facility, which is defined by the CDC as a single case of COVID-19. This testing is inclusive of asymptomatic residents.

Upon completion of initial viral testing in response to an outbreak, repeat testing shall be completed to ensure there are no new infections among residents or healthcare personnel. Repeat testing is to be completed for all previously negative residents and personnel once every seven (7) days. Testing may be discontinued after identifying no new cases for a period of at least 14 days from the most recent positive result.

Given the large number of West Virginians aged 65 and older, many of whom have underlying chronic health conditions increasing their risk of COVID-19 contraction and associated complications, I deem this a necessary public health and medical action.

Thank you for your partnership in accomplishing this objective.

X  7/17/2020
Ayne Amjad, MD, MPH
Commissioner and State Health Officer