

# Heard on the Net

February 2022

Compiled by **Bill Robinson**  
DCAHU Communications Chair



Note: All headlines contain embedded URL links to the full article - just Click on each headline

ALSO - You can also download a PDF document of this column from our website - in a few days. Just go to -

<https://dcahu.org/legislative--7863.htm>

=====  
**Plans and Insurers Must Cover Over-the-Counter COVID-19 Tests** - "The guidance is effective for tests purchased on or after January 15, 2022, and provides, among other things, that [1] over-the-counter tests generally must be covered without cost to the participant, [2] only diagnostic tests are required to be covered without cost, not employer-mandated tests or other tests for surveillance purposes, and [3] a plan or insurer can apply limits on the number of covered tests per month, with a safe harbor limit of eight tests per eligible individual per month."

**CMS Q&As for Employees: How to Get Your At-Home Over-the-Counter COVID-19 Test for Free** - "How do I get a free at-home over-the-counter COVID-19 test? ... How much will I be reimbursed for an at-home over-the-counter COVID-19 test if I purchase the test upfront and then submit a claim for reimbursement to my insurance company? ... Why would these companies be incentivized to cover the cost up front? ... What if I can't afford to pay for the at-home over-the-counter COVID-19 test(s) upfront? ... How many tests can I get reimbursed for? ... My employer requires that I test myself multiple times per week and send them the results as a condition of employment. Can I get these tests reimbursed by insurance?"

**Full Cost of Over-the-Counter COVID-19 Tests Will Be Covered by Medicare** - "There are a number of issues that have made it difficult to cover and pay for over-the-counter COVID-19 tests.... CMS has identified a pathway that will expand access to free over-the-counter testing for Medicare beneficiaries. This new initiative will enable payment from Medicare directly to participating pharmacies and other participating entities to allow Medicare beneficiaries to pick up tests at no cost. "

**Health Plan Fiduciaries Must Solicit Information from Brokers and Consultants** - "Plan fiduciaries should consider taking the following actions: [1] Identifying and assigning internal responsibility for soliciting and evaluating required information from brokers and consultants. [2] Introducing contractual obligations on brokers and consultants to provide the required information ... [3] Developing the means to evaluate the information received ... [4] Assessing whether the compensation is, in fact, reasonable."

**Surprise Medical Bills Are Ending, but Controversy Continues** - "The main controversy over surprise billing legislation was never over the surprise bills themselves. Rather, the controversy was over determining how much insurers should pay for out-of-network care once patients are held harmless.... It is likely that the ban on surprise billing will in fact tilt the scale of market power away from physicians and hospitals and toward the payers of health care."

**IRS Releases 2021 Form 8889 and Instructions for HSA Reporting** - "While Form 8889 is filed by HSA holders, employers and advisors working with HSAs should have a basic understanding of its scope. The similarity of the 2020 and 2021 versions was expected, as the rules for HSAs have remained relatively stable since last year."

**Pandemic Changed How Americans Make Decisions About Their Benefits** - "A third of employees think supplemental insurance is more important now than they did before the pandemic. And almost half of employees -- and 63% of millennials -- purchased at least one new benefit because of the pandemic, with life insurance, critical illness insurance and mental health resources sought after the most."

**DOL Sets 2022 Penalties for Health and Welfare Benefit Plan Violations** - "The year-over-year inflation increase for 2022 is 6.222%.... A chart shows the 2022 and 2021 maximum (and in some cases, minimum) penalties for certain health and welfare plan violations assessed after Jan. 15."

**DOL Provides Guidance for CAA Broker Compensation Disclosure Requirements** - "The DOL did highlight that a key goal of the disclosure requirements is to enhance fee transparency -- including 'for service' arrangements that involve payment of indirect compensation. Disclosures must include information about indirect compensation. The DOL has provided an Example of Indirect Compensation."

**Deadline Approaches for Disclosure to CMS of Medicare Part D Creditable Coverage** - "The regulations also require group health plan sponsors with Part D eligible individuals to submit a similar notice to [CMS] ... The filing deadline is 60 days following the first day of the plan year. If you operate a calendar year plan, the deadline is the end of February."

**States Update Reporting Obligations for Group Health Plan Sponsors** - "While ERISA continues to preempt certain state regulation of private employers' group health plans, some state reporting requirements for group health plan sponsors have moved forward.... Some reports due in 2022 for the 2021 coverage year will follow the same schedule as the IRS deadlines to file federal Forms 1094/1095. Some jurisdictions have indicated they will accept the federal forms that group health plan sponsors or other MEC providers must send to IRS and won't require duplicative statements to residents."

**Upcoming Deadlines for ACA Reporting and Similar State Reporting** - "With respect to health coverage in 2021, the ACA deadlines range from February 28 to March 31, 2022, and the state deadlines range from January 31 to April 31, 2022. All of the reporting discussed in this alert relates to health coverage in 2021."

**Prepare Yourself for an ACA Audit** - "Minimizing risk of a DOL audit can be done with several best practices ... Mistakes in reporting under IRS requirements can be tremendously costly. In addition to general non-compliance, an IRS auditor may look for a series of vague or non-specific answers to signal a red flag.... Audit letters typically request specific documents and apply a specific deadline, so it's critical that employers retain all documentation that could be used to respond to an ACA audit."

**Text of CMS Guidance: Federal Independent Dispute Resolution (IDR) Process for Disputing Parties (PDF)** - 37 pages. "This document provides guidance to disputing parties who are seeking to resolve a claim for payment for out-of-network (OON) health care items or services through the Federal IDR Process.... This document provides information on how the disputing parties engage in open negotiation prior to the Federal IDR Process, initiate the Federal IDR Process, select a certified IDR entity, and meet the requirements of the Federal IDR Process.... This document does not describe the Federal Patient-Provider Dispute Resolution Process for resolving payment disagreements between uninsured or self-pay patients and health care facilities or providers."