

2022 -- S 2325

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

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A N A C T

RELATING TO INSURANCE -- ACCIDENT AND SICKNESS INSURANCE POLICIES

Introduced By: Senators DiMario, Euer, Miller, Cano, Murray, Lawson, Valverde,
Sosnowski, Archambault, and Kallman

Date Introduced: February 15, 2022

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 27-18 of the General Laws entitled "Accident and Sickness Insurance
2 Policies" is hereby amended by adding thereto the following section:

3 **27-18-89. Over-the-counter COVID-19 tests.**

4 (a) Every individual or group health insurance contract, plan or policy issued for delivery
5 or renewed in this state on or after July 1, 2022, which provides medical coverage that includes
6 coverage for physician services in a physician's office, and every policy which provides major
7 medical or similar comprehensive-type coverage, shall include coverage for FDA approved over-
8 the-counter ("OTC") COVID-19 tests.

9 (b) As used in this section, "FDA approved OTC COVID-19 test" means an over-the-
10 counter diagnostic test kit that serves to detect active COVID-19 infections and for which the
11 United States Food and Drug Administration has issued an authorization. The term includes:

12 (1) A COVID-19 self-collection kit, including, but not limited to, a polymerase chain
13 reaction (PCR) test, which provides results after a sample is received by a laboratory;

14 (2) A COVID-19 self-test kit, including, but not limited to, a rapid antigen test, which
15 provides results in minutes; and

16 (3) Any other OTC test developed in the future that serves to detect active COVID-19 and
17 receives FDA authorization.

18 (c) Insurers must cover FDA approved OTC COVID-19 tests, including tests obtained
19 without involvement of a health care provider. The coverage must be provided without imposing

1 any cost-sharing requirements, prior authorization, or other medical management requirements.

2 (d) Insurers shall not limit the number of OTC COVID-19 tests covered for each member
3 to fewer than eight (8) tests per thirty (30) day period or per calendar month.

4 (1) Insurers shall not be permitted to limit members to a smaller number of these OTC
5 COVID-19 tests over a shorter period (for example, limiting individuals for two (2) tests per week).

6 (2) Insurers shall count each test separately if multiple tests are sold in one package.

7 (e) To comply with this section, insurers must provide direct coverage for OTC COVID-
8 19 tests to members by reimbursing sellers directly without requiring members to provide upfront
9 payment and seek reimbursement.

10 (1) Insurers shall establish a network of pharmacies or retailers online and in convenient
11 locations in Rhode Island, where members will be able to receive tests for free.

12 (2) In providing OTC COVID-19 tests through the direct coverage program, an insurer
13 must take reasonable steps to ensure that members have adequate access to OTC COVID-19 tests,
14 though an adequate number of retail locations, including both in-person and online locations.

15 (3) Insurers shall permit members to elect to purchase OTC COVID-19 tests from other
16 retailers outside the network. In such cases, the insurer shall reimburse the member at least twelve
17 dollars (\$12.00) per individual test (or the cost of the test, if less than twelve dollars (\$12.00)).

18 (f) The direct coverage program shall permit members to obtain OTC COVID-19 tests on
19 behalf of other covered members in the same household.

20 (g) OTC COVID-19 tests obtained pursuant to this section shall be for at-home personal
21 use and not for resale. Insurers may act to prevent, detect, and address fraud and abuse through
22 various permissible activities; provided that, such steps do not create significant barriers for
23 members to obtain these tests.

24 (h) Insurers shall inform enrollees in writing of the coverage available under this section.

25 (i) The health insurance commissioner shall promulgate any regulations and issue any
26 guidance, as the commissioner deems necessary for the efficient administration and enforcement
27 of this section.

28 (j) Insurers who do not comply with this section shall be considered non-compliant with §
29 27-18-86.

30 (k) This section shall not apply to insurance coverage providing benefits for:

31 (1) Hospital confinement indemnity;

32 (2) Disability income;

33 (3) Accident only;

34 (4) Long-term care;

- 1 (5) Medicare supplement;
- 2 (6) Limited benefit health;
- 3 (7) Specified disease indemnity;
- 4 (8) Sickness or bodily injury or death by accident or both; and
- 5 (9) Other limited benefit policies.

6 SECTION 2. Chapter 27-19 of the General Laws entitled "Nonprofit Hospital Service
7 Corporations" is hereby amended by adding thereto the following section:

8 **27-19-81. Over-the-counter COVID-19 tests.**

9 (a) Every individual or group health insurance contract, plan or policy issued for delivery
10 or renewed in this state on or after July 1, 2022, which provides medical coverage that includes
11 coverage for physician services in a physician's office, and every policy which provides major
12 medical or similar comprehensive-type coverage, shall include coverage for FDA approved over-
13 the-counter ("OTC") COVID-19 tests.

14 (b) As used in this section, "FDA approved OTC COVID-19 test" means an over-the-
15 counter diagnostic test kit that serves to detect active COVID-19 infections and for which the
16 United States Food and Drug Administration has issued an authorization. The term includes:

17 (1) A COVID-19 self-collection kit, including, but not limited to, a polymerase chain
18 reaction (PCR) test, which provides results after a sample is received by a laboratory;

19 (2) A COVID-19 self-test kit, including, but not limited to, a rapid antigen test, which
20 provides results in minutes; and

21 (3) Any other OTC test developed in the future that serves to detect active COVID-19 and
22 receives FDA authorization.

23 (c) Insurers must cover FDA approved OTC COVID-19 tests, including tests obtained
24 without involvement of a health care provider. The coverage must be provided without imposing
25 any cost-sharing requirements, prior authorization, or other medical management requirements.

26 (d) Insurers shall not limit the number of OTC COVID-19 tests covered for each member
27 to fewer than eight (8) tests per thirty (30) day period or per calendar month.

28 (1) Insurers shall not be permitted to limit members to a smaller number of these OTC
29 COVID-19 tests over a shorter period (for example, limiting individuals for two (2) tests per week).

30 (2) Insurers shall count each test separately if multiple tests are sold in one package.

31 (e) To comply with this section, insurers must provide direct coverage for OTC COVID-
32 19 tests to members by reimbursing sellers directly without requiring members to provide upfront
33 payment and seek reimbursement.

34 (1) Insurers shall establish a network of pharmacies or retailers online and in convenient

1 locations in Rhode Island, where members will be able to receive tests for free.

2 (2) In providing OTC COVID-19 tests through the direct coverage program, an insurer
3 must take reasonable steps to ensure that members have adequate access to OTC COVID-19 tests,
4 though an adequate number of retail locations, including both in-person and online locations.

5 (3) Insurers shall permit members to elect to purchase OTC COVID-19 tests from other
6 retailers outside the network. In such cases, the insurer shall reimburse the member at least twelve
7 dollars (\$12.00) per individual test (or the cost of the test, if less than twelve dollars (\$12.00)).

8 (f) The direct coverage program shall permit members to obtain OTC COVID-19 tests on
9 behalf of other covered members in the same household.

10 (g) OTC COVID-19 tests obtained pursuant to this section shall be for at-home personal
11 use and not for resale. Insurers may act to prevent, detect, and address fraud and abuse through
12 various permissible activities; provided that, such steps do not create significant barriers for
13 members to obtain these tests.

14 (h) Insurers shall inform enrollees in writing of the coverage available under this section.

15 (i) The health insurance commissioner shall promulgate any regulations and issue any
16 guidance as the commissioner deems necessary for the efficient administration and enforcement of
17 this section.

18 (j) Insurers who do not comply with this section shall be considered non-compliant with §
19 27-19-78.

20 (k) This section shall not apply to insurance coverage providing benefits for:

21 (1) Hospital confinement indemnity;

22 (2) Disability income;

23 (3) Accident only;

24 (4) Long-term care;

25 (5) Medicare supplement;

26 (6) Limited benefit health;

27 (7) Specified disease indemnity;

28 (8) Sickness or bodily injury or death by accident or both; and

29 (9) Other limited benefit policies.

30 SECTION 3. Chapter 27-20 of the General Laws entitled "Nonprofit Medical Service
31 Corporations" is hereby amended by adding thereto the following section:

32 **27-20-77. Over-the-counter COVID-19 tests.**

33 (a) Every individual or group health insurance contract, plan or policy issued for delivery
34 or renewed in this state on or after July 1, 2022, which provides medical coverage that includes

1 coverage for physician services in a physician's office, and every policy which provides major
2 medical or similar comprehensive-type coverage, shall include coverage for FDA approved over-
3 the-counter ("OTC") COVID-19 tests.

4 (b) As used in this section, FDA approved OTC COVID-19 test means an over-the-counter
5 diagnostic test kit that serves to detect active COVID-19 infections and for which the United States
6 Food and Drug Administration has issued an authorization. The term includes:

7 (1) A COVID-19 self-collection kit, including, but not limited to, a polymerase chain
8 reaction (PCR) test, which provides results after a sample is received by a laboratory;

9 (2) A COVID-19 self-test kit, including, but not limited to, a rapid antigen test, which
10 provides results in minutes; and

11 (3) Any other OTC test developed in the future that serves to detect active COVID-19 and
12 receives FDA authorization.

13 (c) Insurers must cover FDA approved OTC COVID-19 tests, including tests obtained
14 without involvement of a health care provider. The coverage must be provided without imposing
15 any cost-sharing requirements, prior authorization, or other medical management requirements.

16 (d) Insurers shall not limit the number of OTC COVID-19 tests covered for each member
17 to fewer than eight (8) tests per thirty (30) day period or per calendar month.

18 (1) Insurers shall not be permitted to limit members to a smaller number of these OTC
19 COVID-19 tests over a shorter period (for example, limiting individuals for two (2) tests per week).

20 (2) Insurers shall count each test separately if multiple tests are sold in one package.

21 (e) To comply with this section, insurers must provide direct coverage for OTC COVID-
22 19 tests to members by reimbursing sellers directly without requiring members to provide upfront
23 payment and seek reimbursement.

24 (1) Insurers shall establish a network of pharmacies or retailers online and in convenient
25 locations in Rhode Island, where members will be able to receive tests for free.

26 (2) In providing OTC COVID-19 tests through the direct coverage program, an insurer
27 must take reasonable steps to ensure that members have adequate access to OTC COVID-19 tests,
28 though an adequate number of retail locations, including both in-person and online locations.

29 (3) Insurers shall permit members to elect to purchase OTC COVID-19 tests from other
30 retailers outside the network. In such cases, the insurer shall reimburse the member at least twelve
31 dollars (\$12.00) per individual test (or the cost of the test, if less than twelve dollars (\$12.00)).

32 (f) The direct coverage program shall permit members to obtain OTC COVID-19 tests on
33 behalf of other covered members in the same household.

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1 (g) OTC COVID-19 tests obtained pursuant to this section shall be for at-home personal
2 use and not for resale. Insurers may act to prevent, detect, and address fraud and abuse through
3 various permissible activities; provided that, such steps do not create significant barriers for
4 members to obtain these tests.

5 (h) Insurers shall inform enrollees in writing of the coverage available under this section.

6 (i) The health insurance commissioner shall promulgate any regulations and issue any
7 guidance as the commissioner deems necessary for the efficient administration and enforcement of
8 this section.

9 (j) Insurers who do not comply with this section shall be considered non-compliant with §
10 27-20-74.

11 (k) This section shall not apply to insurance coverage providing benefits for:

12 (1) Hospital confinement indemnity;

13 (2) Disability income;

14 (3) Accident only;

15 (4) Long-term care;

16 (5) Medicare supplement;

17 (6) Limited benefit health;

18 (7) Specified disease indemnity;

19 (8) Sickness or bodily injury or death by accident or both; and

20 (9) Other limited benefit policies.

21 SECTION 4. Chapter 27-41 of the General Laws entitled "Health Maintenance
22 Organizations" is hereby amended by adding thereto the following section:

23 **27-41-94. Over-the-counter COVID-19 tests.**

24 (a) Every individual or group health insurance contract, plan or policy issued for delivery
25 or renewed in this state on or after July 1, 2022, which provides medical coverage that includes
26 coverage for physician services in a physician's office, and every policy which provides major
27 medical or similar comprehensive-type coverage, shall include coverage for FDA approved over-
28 the-counter ("OTC") COVID-19 tests.

29 (b) As used in this section, "FDA approved OTC COVID-19 test" means an over-the-
30 counter diagnostic test kit that serves to detect active COVID-19 infections and for which the
31 United States Food and Drug Administration has issued an authorization. The term includes:

32 (1) A COVID-19 self-collection kit, including, but not limited to, a polymerase chain
33 reaction (PCR) test, which provides results after a sample is received by a laboratory;

34 (2) A COVID-19 self-test kit, including, but not limited to, a rapid antigen test, which

1 provides results in minutes; and

2 (3) Any other OTC test developed in the future that serves to detect active COVID-19 and
3 receives FDA authorization.

4 (c) Insurers must cover FDA approved OTC COVID-19 tests, including tests obtained
5 without involvement of a health care provider. The coverage must be provided without imposing
6 any cost-sharing requirements, prior authorization, or other medical management requirements.

7 (d) Insurers shall not limit the number of OTC COVID-19 tests covered for each member
8 to fewer than eight (8) tests per thirty (30) day period or per calendar month.

9 (1) Insurers shall not be permitted to limit members to a smaller number of these OTC
10 COVID-19 tests over a shorter period (for example, limiting individuals for two (2) tests per week).

11 (2) Insurers shall count each test separately if multiple tests are sold in one package.

12 (e) To comply with this section, insurers must provide direct coverage for OTC COVID-
13 19 tests to members by reimbursing sellers directly without requiring members to provide upfront
14 payment and seek reimbursement.

15 (1) Insurers shall establish a network of pharmacies or retailers online and in convenient
16 locations in Rhode Island, where members will be able to receive tests for free.

17 (2) In providing OTC COVID-19 tests through the direct coverage program, an insurer
18 must take reasonable steps to ensure that members have adequate access to OTC COVID-19 tests,
19 though an adequate number of retail locations, including both in-person and online locations.

20 (3) Insurers shall permit members to elect to purchase OTC COVID-19 tests from other
21 retailers outside the network. In such cases, the insurer shall reimburse the member at least twelve
22 dollars (\$12.00) per individual test (or the cost of the test, if less than twelve dollars (\$12.00)).

23 (f) The direct coverage program shall permit members to obtain OTC COVID-19 tests on
24 behalf of other covered members in the same household.

25 (g) OTC COVID-19 tests obtained pursuant to this section shall be for at-home personal
26 use and not for resale. Insurers may act to prevent, detect, and address fraud and abuse through
27 various permissible activities; provided that, such steps do not create significant barriers for
28 members to obtain these tests.

29 (h) Insurers shall inform enrollees in writing of the coverage available under this section.

30 (i) The health insurance commissioner shall promulgate any regulations and issue any
31 guidance as the commissioner deems necessary for the efficient administration and enforcement of
32 this section.

33 (j) Insurers who do not comply with this section shall be considered non-compliant with §
34 27-41-91.

1 (k) This section shall not apply to insurance coverage providing benefits for:

2 (1) Hospital confinement indemnity;

3 (2) Disability income;

4 (3) Accident only;

5 (4) Long-term care;

6 (5) Medicare supplement;

7 (6) Limited benefit health;

8 (7) Specified disease indemnity;

9 (8) Sickness or bodily injury or death by accident or both; and

10 (9) Other limited benefit policies.

11 SECTION 5. Chapter 42-7.2 of the General Laws entitled "Office of Health and Human
12 Services" is hereby amended by adding thereto the following section:

13 **42-7.2-21. Over-the-counter COVID-19 tests.**

14 (a) Rhode Island Medicaid and its contracted managed care entities shall provide coverage
15 for FDA approved over-the-counter (OTC) COVID-19 tests through the pharmacy benefit.

16 (b) As used in this section, FDA approved OTC COVID-19 test means an over-the-counter
17 diagnostic test kit that serves to detect active COVID-19 infections and for which the United States
18 Food and Drug Administration has issued an authorization. The term includes:

19 (1) A COVID-19 self-collection kit, including, but not limited to, a polymerase chain
20 reaction (PCR) test, which provides results after a sample is received by a laboratory;

21 (2) A COVID-19 self-test kit, including, but not limited to, a rapid antigen test, which
22 provides results in minutes; and

23 (3) Any other OTC test developed in the future that serves to detect active COVID-19 and
24 receives FDA authorization.

25 (c) Rhode Island Medicaid and its contracted managed care entities must cover FDA
26 approved OTC COVID-19 tests, including tests obtained without involvement of a health care
27 provider. The coverage must be provided without imposing any cost-sharing requirements, prior
28 authorization, or other medical management requirements.

29 (d) Rhode Island Medicaid and its contracted managed care entities shall not limit the
30 number of OTC COVID-19 tests covered for each member to fewer than eight (8) tests per thirty
31 (30) day period or per calendar month.

32 (1) Rhode Island Medicaid and its contracted managed care entities shall not be permitted
33 to limit members to a smaller number of these OTC COVID-19 tests over a shorter period (for
34 example, limiting individuals for two (2) tests per week).

1 (2) Rhode Island Medicaid and its contracted managed care entities shall count each test
2 separately if multiple tests are sold in one package.

3 (e) To comply with this section, Rhode Island Medicaid and its contracted managed care
4 entities must provide direct coverage for OTC COVID-19 tests to members by reimbursing sellers
5 directly without requiring members to provide upfront payment and seek reimbursement.

6 (1) Rhode Island Medicaid and its contracted managed care entities shall establish a
7 network of pharmacies or retailers online and in convenient locations in Rhode Island, where
8 members will be able to receive tests for free.

9 (2) In providing OTC COVID-19 tests through the direct coverage program, Rhode Island
10 Medicaid and its contracted managed care entities must take reasonable steps to ensure that
11 members have adequate access to OTC COVID-19 tests, through an adequate number of retail
12 locations, including both in-person and online locations.

13 (3) Rhode Island Medicaid and its contracted managed care entities shall permit members
14 to elect to purchase OTC COVID-19 tests from other retailers outside the network. In such cases,
15 Rhode Island Medicaid and its contracted managed care entities shall reimburse the member at least
16 twelve dollars (\$12.00) per individual test (or the cost of the test, if less than twelve dollars
17 (\$12.00)).

18 (f) The direct coverage program shall permit members to obtain OTC COVID-19 tests on
19 behalf of other covered members in the same household.

20 (g) OTC COVID-19 tests obtained pursuant to this section shall be for at-home personal
21 use and not for resale. Rhode Island Medicaid and its contracted managed care entities may act to
22 prevent, detect, and address fraud and abuse through various permissible activities; provided that,
23 such steps do not create significant barriers for members to obtain these tests.

24 (h) Rhode Island Medicaid and its contracted managed care entities shall inform enrollees
25 in writing of the coverage available under this section.

26 (i) The secretary shall promulgate any regulations and issue any guidance as the secretary
27 deems necessary for the efficient administration and enforcement of this section.

28 SECTION 6. This act shall take effect on January 1, 2023.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO INSURANCE -- ACCIDENT AND SICKNESS INSURANCE POLICIES

- 1 This act would mandate that health insurance companies and Medicaid provide coverage
- 2 for FDA approved COVID-19 home testing kits.
- 3 This act would take effect on January 1, 2023.

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