



June 9, 2022

Daniel Tsai  
Deputy Administrator and Director  
Center for Medicaid and CHIP Services  
7500 Security Blvd.  
Baltimore, MD 21244

Dear Deputy Administrator Tsai,

Thank you for your recent publication of vaccine counseling codes, and for clarifying the requirement for states to enroll and reimburse provider types authorized by the PREP Act declaration to provide vaccination services. We applaud this important action and believe this guidance from the Centers for Medicare and Medicaid Services will improve access to important healthcare services for Medicaid and CHIP (Children's Health Insurance Program) beneficiaries.

We request that CMS provide similar clarification with regard to enrollment and reimbursement of providers authorized under the PREP Act declaration to order and administer testing and treatment. The sections of the American Rescue Plan Act of 2021 (ARP) that established mandatory benefits for COVID-19 vaccination under Medicaid (Section 9811) and CHIP (Section 9821), created similar mandatory benefits for COVID-19 testing and treatments.

As explained in your letter to state health officials<sup>1</sup> and CMS' Vaccine Toolkit<sup>2</sup>, "because the authorizations in the HHS COVID-19 PREP Act declaration preempt conflicting state law, if a person is authorized to administer COVID-19 or childhood vaccines under the HHS COVID-19 PREP Act declaration, a state may not deny Medicaid or CHIP reimbursement to that person for the vaccine administration on the basis of a state law that is preempted by the declaration." It is our understanding that this interpretation creates a similar obligation for states to provide Medicaid and CHIP reimbursement to persons authorized to order and administer COVID-19 tests or treatments.

Your letter to state health officials also emphasizes that, Medicaid's freedom-of-choice of provider requirement at section 1902(a)(23)(A) of the Act creates an additional expectation that states provide Medicaid coverage for mandatory benefits administered by any person who is authorized to provide such services under the PREP Act declaration. This requirement would appear to extend not only to vaccination, but also to COVID-19 testing and treatment benefits described in sections 9811 and 9821 of the ARP.

Guidance to states regarding enrollment and reimbursement of providers authorized to order and administer testing and treatment under the PREP Act declaration would help ensure Medicaid and CHIP beneficiaries have appropriate access to these mandatory benefits.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Kraus", is written over a horizontal line.

Tom Kraus, J.D.  
Vice President, Government Relations

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<sup>1</sup> <https://www.medicaid.gov/federal-policy-guidance/downloads/sho22002.pdf>

<sup>2</sup> see section II of Coverage and Reimbursement of COVID-19 Vaccines, Vaccine Administration, and Cost-Sharing under Medicaid, the Children's Health Insurance Program, and Basic Health Program (Vaccine Toolkit), <https://www.medicaid.gov/state-resource-center/downloads/covid-19-vaccine-toolkit.pdf>