

United States Senate

February 17, 2023

Matt Eyles
President & CEO
American Health Insurance Plans
601 Pennsylvania Avenue, NW
South Building Suite 500
Washington, DC 20004

Dear Mr. Eyles,

Throughout the COVID-19 pandemic, early detection of infection has been critical to curbing the spread of the disease and helping patients know when to seek the care they need. Access to free COVID-19 testing has been and will continue to be critical to keeping people across the country healthy and safe. We write today to urge your members to continue covering at-home COVID-19 tests at no cost for enrollees and without the barriers of medical management requirements, even after the end of the COVID-19 public health emergency. We also write to express our concern that health insurance providers across the country are not complying with their current legal obligations to provide coverage for COVID-19 tests during the public health emergency. Members of the American Health Insurance Plans (AHIP) that are not following the law must immediately begin to do so and rectify their failure to make at-home COVID tests available to their enrollees free of charge during the emergency.

In response to the COVID-19 pandemic, Congress enacted legislation to require health insurance companies to cover COVID-19 testing without cost-sharing, or barriers to access such as prior authorization or other medical management techniques, during the duration of the public health emergency.¹ Congress established this requirement out of recognition that cost-sharing posed a significant barrier to testing. Eliminating these barriers helps Americans find out if they have COVID-19, get necessary treatment, and reduce the spread of the virus. While this provision was initially interpreted to apply primarily to testing within medical settings, since January 15, 2022, guidance issued by the Biden administration require private health insurance or group plans to provide each insured individual with coverage for the costs of eight over-the-counter COVID-19 tests each month.² So, for example, a family of four on the same plan could get thirty-two tests a month covered by their health plan.³ The Biden administration guidance further incentivized insurers to cover the costs of these tests up front, with no need for enrollees to pay out-of-pocket and then seek reimbursement. AHIP's members should take advantage of these incentives.

¹ *FAQs About Affordable Care Act Implementation Part 51, Families First Coronavirus Response Act and Coronavirus Aid, Relief, And Economic Security Act Implementation*, U.S. Dep't of Labor (Jan. 10, 2022), <https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/faqs/aca-part-51.pdf>.

² *Biden-Harris Administration Requires Insurance Companies and Group Health Plans to Cover the Cost of At-Home COVID-19 Tests, Increasing Access to Free Tests*, U.S. Dep't of Health and Human Servs., (Jan. 10, 2022), <https://www.hhs.gov/about/news/2022/01/10/biden-harris-administration-requires-insurance-companies-group-health-plans-to-cover-cost-at-home-covid-19-tests-increasing-access-free-tests.html>.

³ *Id.*

Even after the COVID-19 public health emergency declaration, access to free, timely testing will remain essential. The Centers for Disease Control and Prevention (CDC) continues to recommend COVID-19 testing for people who are symptomatic, have been exposed to COVID-19, are in high risk settings, or who may come into contact with someone who is at high risk for severe COVID-19.⁴ Unnecessary testing barriers hurt all low-and-middle income families, especially disabled, immunocompromised, and elderly Americans. Having free and convenient access to COVID-19 tests, particularly at-home tests, helps people who are most at risk for severe COVID-19 avoid hospitalization and death. It allows them to test often, including repeatedly after exposure, and may provide them with greater access to antiviral treatment, such as Paxlovid, which is available only within five days of symptom onset.⁵

In addition to continued coverage after the expiration of the public health emergency, AHIP members must immediately and continuously improve their coverage of COVID-19 testing, particularly at-home tests. According to reports, some insurance companies have not complied with their legal obligations to provide coverage for COVID-19 tests, while others have made their enrollees pay for them up front and then jump through burdensome reimbursement hoops. Specifically, the Administration's guidance supported the creation of direct coverage plans that allow enrollees to go to preferred brick-and-mortar or online pharmacies and retailers to receive tests at no upfront out of pocket costs.⁶ For example, under these types of participating plans, beneficiaries can go to CVS, Walgreens, Walmart, RiteAid, Sam's Club or Costco stores and pick up an at-home test free of charge simply by showing their insurance card. But not all major insurance companies offer direct coverage plans. Of the thirteen U.S. insurance companies with at least one million beneficiaries,⁷ about one-third of the companies do not offer publicly direct coverage policies but, instead, require enrollees to purchase tests up-front and submit often burdensome documentation to get reimbursed.⁸

⁴*COVID-19 Testing: What You Need to Know*, Centers for Disease Control and Prevention (updated Sept. 28, 2022), <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/testing.html>.

⁵*Important Information About Paxlovid*, Administration for Strategic Preparedness and Response (Jan. 18, 2023), <https://aspr.hhs.gov/COVID-19/Therapeutics/Products/Paxlovid/Pages/default.aspx>

⁶*How to get your At-Home Over-The-Counter COVID-19 Test for Free*, Centers for Medicare and Medicaid Services (Jan. 12, 2022), <https://www.cms.gov/how-to-get-your-at-home-OTC-COVID-19-test-for-free>; Katie Keith, *Insurers and Plans Must Cover At-Home Tests for COVID-19*, Health Affairs (Jan. 11, 2022), <https://www.healthaffairs.org/doi/10.1377/forefront.20220111.960247/>.

⁷Lindsay Dawson et al., *How Are Private Insurers Covering At-Home Rapid COVID Tests?*, Kaiser Family Foundation (Jan. 20, 2022), <https://www.kff.org/policy-watch/how-are-private-insurers-covering-at-home-rapid-covid-tests/>; *Our Member Organizations*, American Health Insurance Plans, (n.d.), <https://www.ahip.org/members> (*Eleven of these thirteen insurance companies are publicly identified as members of AHIP*).

⁸(Anthem's policies indicates that beneficiaries "may have to pay out of pocket at the tie of purchase". Emphasis added.) *COVID-19 Coverage Expanded to Include Over-the-Counter Kits for Diagnostic Tests* (January 3, 2023), Anthem, <https://www.anthem.com/coronavirus/blog/prevention-and-getting-care/coverage-over-the-counter-kits/>; *How to get reimbursed for COVID-19 tests*, Blueshield California, (February 9, 2022), https://www.blueshieldca.com/bsca/bsc/wcm/connect/sites/sites_content_en/coronavirus/how-to-file-claim-covid-test-reimbursement; *Testing Options*, CareFirst, (n.d.), <https://individual.carefirst.com/individuals-families/about-us/coronavirus-members-covid-19-over-the-counter-tests.page>; *Important COVID-19 At-Home Testing Update*, Cigna, (2022), <https://www.cigna.com/coronavirus/>; *At-home COVID-19 tests are now covered under many plans*, Aetna, (n.d.), <https://www.aetna.com/individuals-families/member-rights-resources/covid19/otc-in-home-test-faqs.html#:~:text=Aetna%C2%AE%20Medicare%20plans%20do,for%20OTC%20COVID%2D19%20tests>

When the Biden administration announced its guidance, AHIP responded that insurance companies would “work as quickly as possible to implement” it and “work with the administration to swiftly address issues as they arise.”⁹ However, more than one year later, there have been widespread issues with the availability of free COVID-19 tests and difficulties obtaining reimbursement when an up-front payment is required.¹⁰ For a family of four purchasing eight tests for each covered family member, up-front payments could mean almost \$400 in monthly out-of-pocket costs. Nearly sixty percent of Americans report they could not cover such a large unplanned expense.¹¹

Moreover, when direct coverage is unavailable and millions of Americans must pay up-front for their home-tests, they also face unnecessary, time-consuming, and often frustrating reimbursement paperwork.¹² Some major insurers accept reimbursement submissions online through their websites.¹³ But others require paper documentation and receipts to be mailed or even faxed.¹⁴ Either way, families have to wait for four to six weeks to be reimbursed.¹⁵ And there are troubling reports of claim denials after submitting required documentation, including on resubmission and appeal.¹⁶ This problematic pay-up-front and seek-reimbursement system poses a significant barrier to testing access, particularly for individuals and families who cannot afford to pay hundreds of dollars upfront while waiting for reimbursement that may never come.

⁹ Noah Weiland and Sarah Kliff, *Insurers Will Have to Cover 8 At-Home Virus Tests Per Month*, N.Y. Times, (Jan. 10, 2022), <https://www.nytimes.com/2022/01/10/us/politics/insurance-covid-tests.html>.

¹⁰ Lisa Schneker, *Free, at-home COVID-19 tests can still be tough to find at Illinois pharmacies*, Chicago Tribune (May 3, 2022), <https://www.chicagotribune.com/business/ct-biz-covid-tests-pharmacies-free-insurance-problems-20220503-skrrwcp2x5g25gpqf5lsvvu3v4-story.html>.

¹¹ *6 in 10 Americans don't have \$500 in savings*, CBS19 News (Jan. 12, 2023), <https://www.cbs19news.com/story/34248451/6-in-10-americans-dont-have-500-in-savings>.

¹² Dylan Scott, *The Frustrating Covid-19 Test Reimbursement Process Is A Microcosm Of US Health Care*, Vox (Jan. 20, 2022), <https://www.vox.com/policy-and-politics/22893116/covid-19-free-tests-health-insurance-reimbursement>; Gabrielle Emmanuel, *So far, Mass. residents have barely filed for COVID test reimbursements from insurers. Here's why*, WBUR (Feb. 9, 2022), <https://www.wbur.org/news/2022/02/09/rapid-tests-insurance-reimbursement-massachusetts>.

¹³ *Important COVID-19 At-Home Testing Update*, Cigna (2022), <https://www.cigna.com/coronavirus/>; *At-home COVID-19 tests are now covered under many plans*, Aetna, <https://www.aetna.com/individuals-families/member-rights-resources/covid19/otc-in-home-test-faqs.html#:~:text=Aetna%C2%AE%20Medicare%20plans%20do,for%20OTC%20COVID%2D19%20tests>; *Testing Options*, CareFirst, (n.d.), <https://individual.carefirst.com/individuals-families/about-us/coronavirus-members-covid-19-over-the-counter-tests.page>.

¹⁴ Dylan Scott, *The Frustrating Covid-19 Test Reimbursement Process Is A Microcosm Of US Health Care*, Vox (Jan. 20, 2022), <https://www.vox.com/policy-and-politics/22893116/covid-19-free-tests-health-insurance-reimbursement>; Lindsay Dawson et al., *How Are Private Insurers Covering At-Home Rapid COVID Tests?*, Kaiser Family Foundation (Jan. 20, 2022), <https://www.kff.org/policy-watch/how-are-private-insurers-covering-at-home-rapid-covid-tests/>.

¹⁵ *COVID-19 Over-the-Counter Test Reimbursement Form*, OptumRx, United HealthGroup, (n.d.), <https://covidtest.optumrx.com/covid-test-reimbursement>

¹⁶ Paul Blest, *Why Getting Reimbursed for Covid Test is a Pain in the Ass*, VICE (Mar. 3, 2022), <https://www.vice.com/en/article/dypkg7/reimbursement-for-covid-test>; Audrey Dutton, *The Biden administration said insurers must cover home COVID tests. It didn't say how*, Idaho Capital Sun (June 27, 2022), <https://missouriindependent.com/2022/06/28/the-biden-administration-said-insurers-must-cover-home-covid-tests-it-didnt-say-how>.

Everyone benefits from at-home testing, especially the ability to test again following symptoms or exposure. Those who are at highest risk for complications from COVID-19 and who need to test frequently are especially hurt by insurance companies' lack of direct coverage and burdensome reimbursement policies—and will be even more at risk if they lose access to timely and free COVID-19 testing.

We are calling on members of the American Health Insurance Plans (AHIP) to continue covering at-home tests without additional barriers or costs to beneficiaries. In addition, AHIP members that are not following the law must immediately begin to do so and rectify their failure to make COVID-19 tests available to enrollees free of charge. AHIP members should also seek to change policies that require enrollees to pay for these tests first and then seek reimbursement and maintain this expanded coverage past the end of the public health emergency.

For many Americans navigating the health insurance landscape, confusion, administrative burden, and cost are not new.¹⁷ But they should not have to face and overcome these obstacles when they seek COVID-19 tests in attempt to keep themselves, their families, and their communities safe. While the public health emergency may end, the risks associated with COVID-19 have not. No one should ever be forced to choose between health and financial security.

In light of these concerns, we request written responses to the following questions by March 3, 2023.

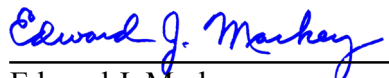
1. Will AHIP commit to encouraging and supporting its members to continue covering at-home COVID-19 tests, without medical management or cost-sharing, after the expiration of the COVID-19 public health emergency?
2. What information has AHIP provided to its members about their obligations under statutory requirements and the January 15, 2022 guidance relating to at home COVID-19 tests?
 - a. What steps has AHIP taken to help its members implement the January 15, 2022 guidance? When did AHIP begin to help its members implement coverage requirements for at-home COVID-19 tests?
3. What information has AHIP provided to its members about establishing direct coverage networks to provide COVID-19 tests free at the point of service? Why are some AHIP members not offering direct coverage plans?

¹⁷ Jean-Pierre Stephan, *The Hidden Cost of Healthcare System Complexity*, Accenture (2018), https://www.accenture.com/_acnmedia/pdf-104/accenture-health-hidden-cost-of-healthcare-system-complexity.pdf#:~:text=THE%20HIDDEN%20COST%20OF%20HEALTHCARE%20SYSTEM%20COMPLEXITY%20The,%244.8%20billion%20annual%20administrative%20cost%20burden%20for%20payers (cost of low healthcare system literacy creates nearly \$5 billion in “administrative cost burden for payers”); Chris Seib, *Consumers are Demanding More from Healthcare*, AJMC (Aug. 13, 2017), <https://www.ajmc.com/view/consumers-are-demanding-more-from-healthcare> (only one third of consumers understand their payment responsibilities).


4. What information has AHIP provided to its members about establishing online reimbursement submissions through a member's website? Why do any AHIP members still require mail or fax submissions of reimbursement requests?
5. What information has AHIP collected from its members about the number of denials of coverage when upfront payment and reimbursement is required, the length of time for reimbursement, and the number of denials of resubmissions and appeals?
6. How is AHIP working with its members to resolve reimbursement denials for claims submitted after the January 15, 2022 guidance took effect?
 - a. Will AHIP be providing information to its members on steps for approving claims previously denied wrongfully?
 - b. Will AHIP be providing information to its members about their obligations to approve claims for tests purchased between January 15, 2022 and May 11, 2023, even if the claims are received after the end of the public health emergency?
7. What information has AHIP provided to its members about the end the COVID-19 public health emergency?
8. Has AHIP provided any guidance to its membership to continue coverage of at least eight at-home tests per covered individual the end of the public health emergency?
 - a. What information has AHIP collected from its members about their plans to cover at-home COVID tests at no or low-cost after the end of the public health emergency?

Thank you for attention to this important public health matter.

Sincerely,



Edward J. Markey
United States Senator



Elizabeth Warren
United States Senator



Martin Heinrich
United States Senator