



# KANSAS INSURANCE DEPARTMENT

*Vicki Schmidt, Commissioner*

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December 16, 2020

Dear Provider:

As Kansans continue to battle COVID-19, it is imperative that the public be able to trust medical providers, health plans and insurers, and governmental regulatory bodies. Further, it is widely accepted that efficient and effective testing for the virus is a key measure to eventually restoring public health and ending the pandemic.

The State of Kansas, through Department of Health and Environment Secretary Dr. Lee Norman, has issued a standing order for COVID-19 testing.<sup>1</sup> That standing order allows individuals to undergo testing for SARS-CoV-2, the virus that causes COVID-19, subject to certain terms. The standing order authorizes antigen or PCR testing for individuals that meet criteria that, in essence, equate to a diagnostic, i.e., non-screening or surveillance, circumstance. For example, persons who have had close contact with a person that has laboratory-confirmed COVID-19 and develops one or more of certain listed symptoms, or if no source of exposure has been identified and the person has one or more of certain listed symptoms, constitute a diagnostic testing circumstance. The stated purpose of the standing order is to alleviate a patient from having to get an order from their health care provider.

Pursuant to the requirements of the federal Families First Coronavirus Response Act and the CARES Act, health plans and health insurers must provide coverage, without imposing cost sharing responsibilities, for diagnostic COVID-19 testing, and the administration of such test, including certain items and services is also covered without cost sharing. While this is a benefit for individuals, the cost of such tests are borne by health plan issuers and insurers. Federal law permits the testing provider to be reimbursed at the negotiated rate or, if the plan or issuer does not have a negotiated rate with the provider, the cash price for such service that is listed by the provider on its public website.

According to a survey by the America's Health Insurance Plans,<sup>2</sup> price gouging in COVID-19 testing is a significant problem. Recently, the Kansas Insurance Department was made aware of concerning behavior by providers conducting COVID-19 testing in Kansas. Specifically, the Department was informed of a provider in Lenexa, Kansas that lists a cash price of nearly \$1,000 for a PCR test.<sup>3</sup> This far exceeds the average price for a PCR COVID-19 test, which, according to AHIP, is less than \$185.

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<sup>1</sup> <https://www.coronavirus.kdheks.gov/DocumentCenter/View/1599/Secretary-Norman-COVID-19-Testing-Standing-Order>

<sup>2</sup> [https://www.ahip.org/wp-content/uploads/202008-AHIP\\_COVID-PriceGouging.pdf](https://www.ahip.org/wp-content/uploads/202008-AHIP_COVID-PriceGouging.pdf)

<sup>3</sup> <https://gslabstesting.com/covid-19-pricing-transparency/>

**If these astronomical costs charged by unscrupulous providers are borne by the health plans and insurers without recompense, consumers will ultimately pay more for their health care as health insurance costs will rise.**

Also related to COVID-19 testing, the Kansas Insurance Department has been made aware of providers conducting unnecessary tests in conjunction with a COVID-19 diagnostic test. This often results in thousands of dollars of unnecessary charges that are passed on to health plans and insurers. This too, will ultimately lead to increased health insurance costs. The KDHE standing order should obviate the need for a specific order from a physician and thus eliminate the need to conduct many screening exams and other tests currently being provided by health care providers. Conducting unnecessary medical procedures under the guise of emergency care will not be tolerated.

The purpose of this letter then, is to advise providers that the Kansas Insurance Department is collecting data on these issues and will fully cooperate with law enforcement and administrative enforcement authorities, including the Kansas Attorney General's Office, the Kansas Department of Health and Environment, and the Centers for Medicare and Medicaid Services to ensure Kansas consumers are protected. **Providers are advised that price gouging and insurance fraud will be fully investigated and prosecuted.**

Consequently, providers conducting COVID-19 testing should review their pricing and billing practices to ensure they comply with Kansas law.

Questions regarding this letter can be addressed to Justin L. McFarland, General Counsel, Kansas Insurance Department, at [Justin.L.McFarland@ks.gov](mailto:Justin.L.McFarland@ks.gov).

Individuals affected by COVID-19 testing costs should contact the Kansas Insurance Department's Consumer Assistance Division at [kid.webcomplaints@ks.gov](mailto:kid.webcomplaints@ks.gov) and the Kansas Attorney General at <https://ag.ks.gov/complaint-center/price-gouging-and-coronavirus-scams-investigative-request>.

Respectfully submitted,



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Health insurers licensed in Kansas