



U.S. District Court Strikes Down Certain ACA Preventive Care Services for Health Plans Nationwide

April 2023

A U.S. District Court for the Northern District of Texas has struck down the Affordable Care Act (ACA) requirement that health plans cover certain preventive care services recommended by the U.S. Preventive Services Task Force (USPSTF). The District Court's decision in *Braidwood Management v. Becerra* applies nationwide.

This Aon bulletin discusses the following:

- Background and Decision
- Impact on Employers
- Next Steps

Background and Decision

The ACA requires most group health plans to cover certain preventive care services without participant cost-sharing. The preventive services that must be covered under the ACA have been developed by three government agencies:

- The Advisory Committee on Immunization Practices (ACIP) for immunizations;
- The Health Resources and Services Administration (HRSA) for women, infants, children, and adolescents; and
- The USPSTF for specific evidence-based items and services with an “A” or “B” rating, such as colorectal, diabetes, depression, and breast cancer screenings.

In 2022, the District Court ruled that the ACA's designation of the USPSTF violated the Appointments Clause of Article II of the Constitution. As a result, the District Court held that any ACA requirements based on USPSTF recommendations were not valid. At that time, the District Court deferred ruling on whether its decision would apply narrowly or universally.

The District Court's ruling on March 30, 2023, makes clear that the court's ruling applies universally, not just to the parties in the case and not just in the Northern District of Texas. The District Court held that “a universal remedy is appropriate” and held that “all agency action taken to implement or enforce the [USPSTF's preventive care rules]” were illegal. The District Court vacated all agency actions enforcing the USPSTF's preventive care rules and enjoined any agency actions to implement or enforce the rules.

Impact on Employers

Employers that sponsor group health plans should note the following when assessing their preventive care coverage under this decision:

- The District Court did not prohibit group health plans from continuing to offer the USPSTF's preventive care services. Although the District Court ruled that the USPSTF was not properly appointed under the U.S. Constitution and vacated the USPSTF's rules on preventive care services rules, group health plans may continue to cover the USPSTF's recommended preventive care services, which can be found [here](#).
- In light of the District Court's ruling, a group health plan may decide not to offer the USPSTF's services or to offer them with participant cost-sharing. Such a design decision, however, might be considered a benefit cutback under ERISA, which would require advance notice to participants and beneficiaries.
- Employers considering taking such steps should also consider that a reversal of the decision or a higher court's stay of the ruling pending an appellate court review could complicate plan administration for a group health plan that dropped or otherwise amended such coverage and then had to reinstate such coverage retroactively.
- The decision does not affect a group health plan's obligation to offer ACA preventive care services issued through ACIP and HRSA. Under those rules, a group health plan must cover preventive care items and services, such as contraceptive items and services and certain vaccines based on recommendations developed by those groups. Those rules remain in effect.

Next Steps

The Biden Administration will likely appeal the ruling to the Fifth Circuit Court of Appeals. Employers may want to consider whether to stay the course with their current preventive care coverage until there is a final resolution or, as noted above, the impact of making design changes based on the District Court decision.



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