

EMPLOYEE BENEFITS

The U.S. Supreme Court Holds that Health Plans must Continue to Provide No-Cost Preventive Care Services that are Recommended by the USPSTF as Required under the ACA

July 2025

Overview

On June 27, 2025, the U.S. Supreme Court reversed the Fifth Circuit's decision and held that the appointment of the U.S. Preventive Services Task Force (USPSTF) is consistent with the Constitution's Appointments Clause, meaning the USPSTF continues to have the authority to recommend preventive care services under the Affordable Care Act's (ACA) preventive care services mandate. Previously, the Fifth Circuit had agreed with the District Court's decision in *Braidwood v. U.S. Department of Health and Human Services* that the appointment of the USPSTF was unconstitutional. Ultimately, the Supreme Court's decision means that sponsors of non-grandfathered group health plans must continue to provide preventive care services with no cost-sharing to plan participants as required under the ACA, including those preventive care services recommended by the USPSTF.

Background and History of Preventive Care Services under the ACA

For health plan years beginning on or after September 23, 2010, the ACA requires non-grandfathered group health plans (not including plans that qualify as HIPAA-excepted benefits) to provide coverage for certain categories of preventive services without any cost-sharing.

There are four categories of mandated preventive care services:

- 1 USPSTF recommended preventive services that are rated A or B
- 2 Centers for Disease Control and Prevention Advisory Committee on Immunization Practices (ACIP) recommended immunizations
- 3 Additional preventive care and screenings for women not recommended by the USPSTF but provided for in the Health Resources and Services Administration's (HRSA) guidelines
- 4 Preventive screenings and care for infants, children and adolescents that are provided for in the HSRA guidelines.

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Decisions by the District Court and Fifth Circuit

On March 30, 2023, the Federal District Court for the Northern District of Texas issued an order in *Braidwood v. U.S. Department of Health and Human Services (HHS)* making the ACA mandate that health plans cover certain preventive care services as recommended by the USPSTF without cost-sharing to the plan participant unenforceable, by way of a nationwide injunction. The *Braidwood* decision applied only to the first category of mandated preventive services listed above (i.e., USPSTF recommended preventive services). Therefore, the District Court vacated all “agency action taken to implement or enforce the preventive care coverage requirements in response to an “A” or “B” recommendation by the U.S. Preventive Services Task Force on or after March 23, 2010, and made compulsory under [the ACA].”

The affected preventive care services included heart disease, lung cancer and depression screenings, among other services. The ruling did not apply with respect to preventive services recommended by the USPSTF prior to March 23, 2010, nor to mandated preventive services included in the other three categories, including services such as mammograms for women over a certain age. The District Court’s nationwide injunction order applied to the plaintiffs in the case, as well as to plan sponsors of non-grandfathered health plans. HHS appealed the District Court’s decision.

On June 21, 2024, the U.S. Court of Appeals for the Fifth Circuit upheld the District Court’s decision in part. The Fifth Circuit agreed that the Secretary of HHS did not have the constitutional authority to appoint members of the USPSTF. However, the Fifth Circuit reversed the District Court’s nationwide injunction on enforcement of the preventive services coverage mandate as recommended by the USPSTF, meaning the ACA preventive coverage mandates would continue to apply to those preventive care services recommended by the USPSTF. However, the plaintiffs who filed the original lawsuit were not required to comply with this preventive care mandate.

U.S. Supreme Court’s Holding

On June 27, 2025, the U.S. Supreme Court reversed the Fifth Circuit’s decision and held that the Secretary of HHS has the authority in accordance with the Constitution’s Appointments Clause to appoint USPSTF members. Therefore, the USPSTF’s recommendations under the ACA preventive services mandate remain enforceable on non-grandfathered group health plans.

Impacts and Considerations

The effect of the Supreme Court’s decision is that plan sponsors should continue to comply with the ACA preventive care services coverage mandate under all four categories mentioned above. Given the abrupt Fifth Circuit’s stay on the District Court’s *Braidwood* decision, it is unlikely that plan sponsors amended their plans to exclude coverage for, or apply cost-sharing requirements to, the preventive care services recommended by the USPSTF. However, plan sponsors should review their plans with legal counsel to ensure they comply with the ACA preventive services coverage mandate. If changes are necessary, plan sponsors should seek legal advice regarding what actions are necessary to make any desired changes, including whether advance notice of the changes would be required pursuant to the SBC notice of material modification rules.

Plan sponsors should be aware that the Fifth Circuit declined to review other plaintiff’s challenges to the authority of the ACIP and HRSA (other governmental agencies that issue preventive care recommendations) and left those decisions to the lower District Court to review. Plan sponsors should be aware that this could potentially result in other challenges to preventive care service recommendations. However, these may be difficult arguments to win given the Supreme Court’s analysis and decision as it relates to the constitutionality of the appointment of USPSTF members.



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