

# Free Preventive Services at Risk in the Braidwood Decision

On September 7, 2022, a federal district judge in Texas issued a ruling in the case *Braidwood Management v. Becerra* regarding the Affordable Care Act's (ACA) statute requiring health plans to cover preventive services at no cost to the enrollee. The judge found that it is unconstitutional to require plans to cover certain preventive services without cost-sharing. This decision was appealed and later temporarily halted by the Fifth Circuit Court of Appeals, maintaining cost-free access to preventive care for now.

## Oversight of Expert Bodies

The ACA relies on three expert bodies that predated the ACA to identify which preventive services are required to be covered without cost-sharing. Because these recommendations are subject to change due to advances in medicine and Congress lacks the scientific expertise needed to keep these recommendations relevant, Congress chose to delegate this authority to medical experts to ensure they remain up-to-date:

- **United States Preventive Services Task Force (USPSTF)**; an independent group of national experts that makes determinations for general adult preventive services as well as some for children; those assigned an "A" or "B" rating (about 50 in total) are required to be covered without cost-sharing
- **Advisory Committee on Immunization Practices (ACIP)**; a group of experts selected by the HHS Secretary that develops vaccine recommendations for children and adults, such as the what ages should be considered, dosage limits, and other considerations
- **Health Resources and Services Administration (HRSA)**; an agency within HHS that, among other things, makes coverage recommendations for preventive services and screenings for children, through the Bright Futures Project (BFP), and women, through the Women's Preventive Services Initiative (WPSI). Covered recommendations include such as cervical cancer, breastfeeding supports, and contraceptives for women and behavioral assessments, newborn screenings, and well-child visits for children.

Note that the ACA also requires certain preventive services to be covered as part of the Essential Health Benefits plans must cover, but those services are not required to be covered without cost-sharing.

The case is now in the Fifth Circuit Court of Appeals, where the case now centers on the constitutionality of the requirement provide access to free preventive services recommended by all three expert bodies. Until now, the case focused on access to services recommended by the United States Preventive Services Task Force (USPSTF) and on pre-exposure prophylaxis (PrEP), an HIV prevention medication. The Fifth Circuit may affirm the District Court's ruling to only eliminate cost-free access to services recommended by the USPSTF, or it could rule in favor of the plaintiffs request to also eliminate requirements for plans to cover preventive services recommended by the Advisory Committee on immunization Practices (ACIP) and Health Resources and Services Administration (HRSA).

The following page lists preventive services required to be covered without cost-sharing by the USPSTF, ACIP, and HRSA. While only USPSTF-recommended services were affected by the district court judge's ruling, cost-free access to all preventive services, including those recommended by ACIP and HRSA, may be affected by future rulings. Note that the listing below focuses on adult populations; some services listed below may not be covered or covered differently without cost-sharing for all populations or age demographics, such as children.



# Free Preventive Services for Adults

Free Coverage of Services at Risk Due to Braidwood

Free Coverage of Services MAY be at Risk due to Braidwood

| Entity   | Free Preventive Services   |  |
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| <p align="center"><b>United States Preventive Services Task Force (USPSTF)</b></p> <p><u><a href="#">Published Recommendations</a></u></p> <p><u><a href="#">Draft Recommendations</a></u></p> | <ul style="list-style-type: none"> <li>• Abdominal aortic aneurysm screenings</li> <li>• Anxiety screenings for adults and adolescents</li> <li>• Aspirin use to prevent preeclampsia</li> <li>• Asymptomatic bacteriuria in adults screenings</li> <li>• Breast cancer screenings (mammography)(also required by HRSA)</li> <li>• Breast cancer medications for risk reduction</li> <li>• Breastfeeding primary care interventions</li> <li>• Breast cancer screening</li> <li>• BRCA-related cancer risk assessments, genetic counseling, and genetic testing</li> <li>• Cervical cancer screenings (pap testing and HPV testing)</li> <li>• Chlamydia and gonorrhea screenings</li> <li>• Colorectal cancer screenings</li> <li>• Depression and suicide risk screenings for children, adolescents, and adults</li> <li>• Depression screenings</li> <li>• Falls prevention in older adults</li> <li>• Folic acid supplements to prevent neural tube defects</li> <li>• Gestational diabetes screenings (also required by HRSA)</li> <li>• Healthful diet/physical activity for cardiovascular disease behavioral counseling</li> <li>• Healthy weight and weight gain in pregnancy (counseling)</li> <li>• Hepatitis B/C infection screenings</li> <li>• HIV screenings</li> <li>• HIV infection screenings (also required by HRSA)</li> </ul> | <ul style="list-style-type: none"> <li>• Hypertension screenings</li> <li>• Hypertensive disorders of pregnancy screening</li> <li>• Intimate partner violence screenings/counseling (also required by HRSA)</li> <li>• Latent tuberculosis infection screenings</li> <li>• Lung cancer screenings</li> <li>• Obesity in children and adolescents screening</li> <li>• Ocular prophylaxis for gonococcal ophthalmia neonatorum</li> <li>• Osteoporosis screenings</li> <li>• Perinatal depression (preventive interventions)</li> <li>• Prediabetes/type 2 diabetes screenings</li> <li>• Preeclampsia screening/preventive medicine</li> <li>• PrEP for HIV prevention</li> <li>• Prevention of dental caries in children younger than 5 years</li> <li>• Rh(D) incompatibility screenings</li> <li>• Syphilis screenings</li> <li>• Skin cancer prevention (counseling)</li> <li>• Statin use for prevention of cardiovascular disease</li> <li>• STI counseling (also required by HRSA)</li> <li>• Tobacco cessation</li> <li>• Unhealthy drug use screenings</li> <li>• Unhealthy alcohol use in adolescents/adults screenings/counseling</li> <li>• Vision screening in children ages 6 months to 5 years</li> <li>• Weight loss/obesity prevention and behavioral interventions</li> </ul> |
| <p><u><a href="#">Advisory Committee on Immunization Practices (ACIP)</a></u></p>  | <ul style="list-style-type: none"> <li>• Covid-19 immunizations</li> <li>• Haemophiles Influenza type B immunizations</li> <li>• Hepatitis A/B immunizations</li> <li>• HPV immunizations</li> <li>• Influenza immunizations</li> </ul>  | <ul style="list-style-type: none"> <li>• Measles/mumps/rubella (MMR) immunizations</li> <li>• Meningococcal immunizations</li> <li>• Pneumococcal immunizations</li> <li>• Td booster immunizations</li> <li>• Tdap immunizations</li> <li>• Varicella immunizations</li> <li>• Zoster (shingles) immunizations</li> </ul>   |

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| <p><u>Health Resources and<br/>Services<br/>Administration<br/>(HRSA)</u></p> | <ul style="list-style-type: none"><li>• Anxiety screenings for adolescent and adult women</li><li>• Breastfeeding supplies and services</li><li>• Cervical cancer screenings (HPV testing)</li><li>• Contraceptive services/counseling</li><li>• Diabetes Mellitus screenings post-pregnancy</li><li>• Obesity prevention in midlife women</li><li>• Urinary incontinence screenings</li><li>• Well woman visits</li></ul> |
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Source: Preventive Services Covered by Private Health Plans under the ACA, as outlined by the Kaiser Family Foundation, here: <https://www.kff.org/womens-health-policy/fact-sheet/preventive-services-covered-by-private-health-plans/>

