



The Supreme Court's *Braidwood* decision: Impacts on people, advocates, and policymakers

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On Friday, June 26, the U.S. Supreme Court released its opinion in [Kennedy v. Braidwood Management Inc.](#), which upheld the Affordable Care Act's (ACA) preventive services mandate requiring private insurers to provide critical preventive care services, such as cancer screenings, HIV prevention medication, and certain behavioral health screenings for free. The decision protects people's no-cost access to these preventive care services, and in particular those recommended by the United States Preventive Services Task Force (USPSTF), a group of national experts that makes evidence-based recommendations about which preventive services are effective.

How did we get here?

For more than a decade, more than 150 million people, including 37 million children, with private insurance coverage have been guaranteed free access to needed preventive care through the ACA's preventive care mandate, which remains one of the [most popular](#) parts of the law. [Health care affordability](#) remains a top concern for people, and removing all forms of cost-sharing for preventive care allows people to access needed services they may [otherwise skip](#) due to cost. Since the mandate went into effect in 2010, utilization of preventive services, such as blood pressure and colorectal cancer screenings, has [increased](#) and health disparities in access have [decreased](#).

The *Braidwood* lawsuit, initially filed in 2020, threatened to undo much of this progress by challenging the legality of the mandate, which was defended by both the Biden and Trump administrations. The Supreme Court took up the case, which examined the legal question of whether the way in which USPSTF members were appointed violated the Constitution's Appointments Clause.

In a 6-3 decision, the Supreme Court upheld the mandate and people's continued access to needed preventive care by saying that the way in which the USPSTF was

Agencies Identifying Preventive Care Services

United States Preventive Services Task Force

(USPSTF): *A group of experts that identifies effective general preventive services for adults as well as some for children.*

Advisory Committee on Immunization Practices

(ACIP): *A group of experts selected by the HHS Secretary that develops vaccine recommendations for children and adults.*

Health Resources and Services Administration

(HRSA): *An agency within HHS that makes coverage recommendations for preventive services and screenings for women and children.*

structured did not violate the Constitution's Appointments Clause. At the same time, the Court also confirmed the HHS Secretary's ability to remove USPSTF members and approve or reject their preventive services recommendations.

Will this decision impact people's coverage?

In the short-term, people can rest assured that the preventive care coverage they've come to depend on over the past decade will not change and remain free.

Despite this, while the Supreme Court's decision upholds the preventive services mandate, questions remain about people's continued access to these services for free in the future. Moving forward, the Court affirmed the HHS Secretary's ability to remove members of the USPSTF and revisit or reverse previous USPSTF recommendations. [Recent actions](#) taken by the Secretary to remove and replace all members of the Advisory Committee (ACIP), which makes recommendations on the use of vaccines, suggests similar action against sitting USPSTF members is a possibility, although far from guaranteed. Regardless of the Secretary's decisions, any changes to people's preventive services coverage would not happen overnight and would likely also allow for opportunities for interested parties to understand any changes.

In addition to potential changes at USPSTF, related litigation surrounding the legality of recommendations made by ACIP, HRSA, and some other USPSTF services will now resume on the District Court level that may further threaten other preventive care services, such as vaccinations and contraception. **While cost-free coverage remains in place for now, future efforts to chip away at the mandate may threaten people's access to needed preventive care in the future.**

How can advocates and policymakers respond?

Given the long-term uncertainty surrounding people's access to no-cost preventive care, advocates and policymakers should act now to ensure people's continued access to these services. While congressional action to improve access to preventive care seems unlikely, it's important for advocates and others to press HHS to rely on evidence-based recommendations made by public health experts and members of the medical community when making coverage recommendations.

Nearly twenty states have also preserved no-cost access to preventive services at the state level for all plans under their jurisdiction, including individual, small group, and fully insured plans. States can also pursue [other solutions](#) to ensure continued access to cost-free preventive care, such as amending their essential health benefits (EHB) benchmark plan to cover all recommended preventive care services or modifying existing standardized health plan designs for states with state-based marketplaces.