

LEGAL UPDATE



Federal Court Strikes Down Parts of ACA Preventive Services Mandate

On March 30, 2023, the U.S. District Court for the Northern District of Texas issued a [ruling](#) that affects portions of the Affordable Care Act's (ACA) preventive care services requirement. The court issued a nationwide injunction that is expected to be appealed by President Joe Biden's administration. The practical impact of the ruling remains to be seen. The court ruling does not affect requirements related to contraceptive coverage.

ACA Preventive Care Coverage Requirements

The ACA requires most health plans to cover a set of preventive services without imposing cost-sharing requirements when the services are provided by in-network providers. Among these are evidence-based items or services that have, in effect, a rating of A or B in the current recommendations of the U.S. Preventive Services Task Force (USPSTF).

HIV PrEP Coverage Requirements

A specific mandate addressed by the court ruling was the requirement to cover preexposure prophylaxis (PrEP) drugs used by persons at high risk of getting HIV. On June 11, 2019, the USPSTF released a recommendation for HIV PrEP for high-risk individuals, which requires plans and issuers to cover HIV PrEP without cost sharing for plan years beginning on or after June 30, 2020. The Departments issued [FAQs](#) in July 2021, providing further guidance regarding this coverage.

Court Ruling

The court previously ruled that preventive care coverage requirements based on an A or B rating by the USPSTF on or after March 23, 2010, violate the U.S. Constitution. Accordingly, the new ruling granted an injunction against the enforcement of those requirements and vacated all related agency actions.

The court also ruled that the PrEP coverage mandate violates the plaintiffs' rights under Religious Freedom Restoration Act. The plaintiffs had argued that this mandate violated their religious beliefs by requiring them to support behavior that is inconsistent with those beliefs.

Impact of the Ruling

The impact of the ruling on specific employer plans remains unclear. The ruling is expected to be appealed and may be stayed while litigation is ongoing.

Also, while plans may not be required to provide certain types of preventive care services without cost sharing, many plans are expected to continue to provide this coverage. States may also impose preventive care requirements on insured plans.

Preventive Services Requirements

Other preventive care services that must be covered, which were not the subject of the court ruling, include:

- For children, adolescents and adults, immunizations for routine use that are currently recommended by the Centers for Disease Control and Prevention (CDC) and included on the CDC's immunization schedules;
- For infants, children and adolescents, evidence-informed preventive care and screenings provided for in the Health Resources and Services Administration (HRSA) guidelines; and
- For women, evidence-informed preventive care and screening provided in guidelines supported by HRSA.