Health Advocate

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Key Resources

HHS - *Next step in updating the Women's Preventive Services Guidelines*

Network for Public Health Law - *Gonorrhea Screenings, HIV and the U.S. Preventive Services Task Force*

Institute of Medicine - *Women's Preventive Services Recommended by IOM to be Covered under the Affordable Care Act*

NHeLP - *Comments on the Advanced Notice of Proposed Rulemaking for Certain Preventive Services Under the Affordable Care Act*

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Coming in August *Health Advocate*: Benefits & Payment

The ACA and Preventive Screenings and Services

Prepared by: Julia Quinn and Wayne Turner

The Affordable Care Act (ACA) recognizes that even small investments in preventive screenings and services can yield significant cost savings and improve health outcomes. Accordingly, the ACA requires most health plans to provide certain preventive screenings and services with no cost sharing for consumers. Eliminating co-pays and other out-of-pocket expenditures increases access to these important services, particularly for low-income persons for whom cost is often a barrier to accessing needed preventive services and care.

The no-cost sharing preventive services and screenings include:

- Screenings and services recommended with an A or B rating by the U.S. Preventive Services Task Force (USPSTF).
- Women's health services according to guidelines developed by the Department of Health and Human Services' Health Resources Services Administration (HRSA).
- Children's preventive care and screenings provided for in guidelines supported by HRSA.
- Immunizations for children and adults recommended by the Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices (ACIP).[1]

This month's *Health Advocate* examines the ACA's preventive services requirements, including the process for updating those requirements and opportunities for advocates and other stakeholders seeking to improve and expand covered screenings and services.

What plans are covered?

The no-cost sharing preventive screenings and services requirements apply to all new individual and group (*i.e.*, employee) health insurance plans, including self-insured plans, both inside and outside of an ACA marketplace. Grandfathered plans that have not changed substantially since the ACA was enacted are not subject to the preventive services requirements.[2] (To determine whether a plan is "grandfathered," check the plan documents.) Additionally, a narrow category of nonprofit religious institutions are exempt from the *contraceptive* coverage

[1] 42 U.S.C. § 300gg–13; 29 C.F.R. §§ 2590.715-2713; 45 CFR § 147.130.
[2] *Id.*

requirement in the women's preventive services guidelines (these institutions are *not* exempt from the remainder of the women's preventive services requirements).

In addition, Medicaid coverage for newly eligible adults through "Alternative Benefit Plans" (ABPs) must adhere to the ACA preventive services requirements. States must provide these screenings and services with no-cost sharing even if the state's traditional Medicaid program imposes cost sharing on preventive care. The ACA also encourages, but does not require, states to provide USPSTF recommended screenings and vaccines without charge to adults enrolled in traditional Medicaid categories and provides a one percent increase in their federal matching funds for these services.

USPSTF

The ACA requires new health insurance plans to provide, with no cost sharing, screening and preventive services that the USPSTF grades with an A or B recommendation. The USPSTF is a congressionally mandated panel of experts in prevention and medicine. It conducts scientific review of clinical preventive health care research data and evidence and makes recommendations for clinicians on preventive screenings and services that can substantially benefit adults and children. The USPSTF gives recommended services an A or B rating when it determines the evidence allows with high or moderate certainty that providing the service will have a substantial or moderate benefit.

The USPSTF posts online and periodically updates its A and B Recommended Services. The services are wide-ranging, from cholesterol and Sexually Transmitted Infection (STI) screening to counseling for tobacco use. Many of the USPSTF screenings and services target specific populations according to age, sex, and other risk factors.

When insurers unlawfully charge for no-cost preventive services and screenings

Colorectal cancer is the second leading cause of cancer-related deaths in the United States.[3] Colonoscopies and other screening tools for colorectal cancer receive an A level recommendation from USPSTF for all adults beginning at age 50. However, some insurers have been reluctant to cover the full costs of colonoscopies.

For example, some insurers charged patients for anesthesia and bowel preparation medications prescribed for the procedure. Insurers have also charged patients if a polyp was removed during the colonoscopy, arguing this changed the procedure from screening to treatment. HHS, along with the Departments of Labor (DOL) and Treasury, issued joint guidance in February 2013, May 2015, and April 2016 reiterating insurers' obligation to cover the entire costs of colonoscopies without charge to the patient, including anesthesia, bowel preparation medication, and polyp removal incidental to a screening.

If a health plan or provider unlawfully charges for recommended preventive services and screenings, consumers should file a complaint with their state's insurance commissioner. The National Women's Law Center provides a helpful resource - *Getting the Coverage You Deserve: What to Do If You Are Charged a Co-Payment, Deductible, or Co-Insurance for a Preventive Service.*

[3] Ctrs. for Disease Control & Prev., *Colorectal Cancer Statistics*, http://www.cdc.gov/cancer/colorectal/statistics/index.htm.

To add or expand a USPSTF recommended screening, the Task Force considers:

- Risk and burden of the condition on a subgroup of people based on age, gender, ethnicity, and particular behaviors;
- Whether the harms, feasibility, and efficacy in treatment differ for subgroups;
- Whether research has been limited to particular groups.

The USPSTF provides ample opportunities for public engagement, including for nominating new Task Force members, proposing screenings and services, and providing comments on the research and review process for providing recommendations.

Women's Preventive Services

The ACA requires HRSA to develop guidelines that articulate the specific women's health benefits that plans must cover without cost sharing.[4] HRSA commissioned the Institute of Medicine (IOM) to provide the inaugural evidence-based recommendations, leading to eight covered benefits:

Well-woman preventive care visits to obtain recommended preventive services that are developmentally appropriate, including preconception and prenatal care	All FDA-approved contraceptive methods, sterilization procedures, and patient education and counseling for all women with reproductive capacity
High-risk human papillomavirus (HPV) DNA testing in women with normal cytology results	Annual counseling on sexually transmitted infections for all sexually active women
Annual counseling and screening for HIV for all sexually active women	Screening for gestational diabetes
Comprehensive breastfeeding support and counseling and costs for renting breastfeeding equipment	Screening and counseling for interpersonal and domestic violence[5]

These preventive service requirements are critical for the health and well-being of women, who are disproportionately affected by cost barriers to care. Eliminating cost-sharing for preventive services also addresses health disparities and inequities, particularly for low-income women and women of color.

Plans subject to these requirements must cover the required benefits without cost sharing so long as a woman receives the services from a provider in the plan's network.[6] If a plan does not have a provider in its network who can provide a required screening or service, then the plan must cover the service or item, without cost sharing, even when provided by an out-of-network provider.

The frequency at which plans must cover the women's preventive services and screenings varies, according to the HRSA guidelines. For example, counseling and screening for HIV must be covered annually for all sexually active women, while the high-risk testing for HPV must be covered no more frequently than every three years for women ages 30 and above.

[4] 42 U.S.C. § 300gg-13(a)(4).
[5] The complete *Guidelines for Women's Preventive Services* and a link to the IOM report can be found on the HRSA website http://www.hrsa.gov/womensguidelines/.
[6] 45 C.F.R. § 147.130(a)(3).

Despite these requirements, insurance plans are permitted to use "reasonable medical management techniques" to determine the frequency, method, treatment, or setting for any of the required preventive services to the extent not already specified in the HRSA guidelines.[7] Medical management techniques generally include step therapy (requiring a patient to try one method before getting access to another), prior authorization, and quantity limits. However, as noted above, health insurance plans are only permitted to use medical management techniques that are "reasonable."[8]

The ACA directs HRSA to review and continually update the women's preventive services guidelines. Earlier this year, HRSA awarded a five year contract to the American College of Obstetricians and Gynecologists (ACOG) to develop a collaborative process to evaluate the guidelines and recommend updates to them, when necessary.[9] ACOG must convene a coalition of providers, academics, and consumer-focused health professional organizations to conduct a scientifically rigorous review process to recommend updates and provide an opportunity for public comment. For more information on how to participate in the updating process, visit ACOG's Women's Preventive Services Initiative.

Pediatric Preventive Services

Preventive screenings, tests, and services are critically important for children. The ACA recognizes that preventive care can help detect potentially serious medical conditions in children early. Monitoring development helps ensure that children grow into becoming healthy and productive adults.

HRSA supports preventive screenings and services established and updated by:

- The American Academy of Pediatrics (AAP) under Bright Futures - Recommendations for Preventive Pediatric;
- The Secretary's Advisory Committee on Heritable Disorders in Newborns and Children Uniform Screening Panel.[10]

Medicaid Early and Periodic Screening, Diagnostic, and Treatment (EPSDT)

The ACA's preventive screenings and services requirement for children enrolled in non-grandfathered private health plans is distinct from the Early and Periodic Screening, Diagnostics, and Treatment mandate in Medicaid. EPSDT has more rigorous screening standards for low-income children, including universal screening for elevated blood lead levels and also requires states to "correct or ameliorate physical and mental illnesses and conditions" that are detected.[11] Medicaid also prohibits cost sharing for services provided to children.[12]

[7] HHS Ctr. for Consumer Information & Insurance Oversight, *ACA Implementation FAQs - Set 18*, https://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/aca_implementation_faqs18.html (last visited July 13, 2016); 45 C.F.R. § 147.130(a)(4).

[8] HHS Ctr. for Consumer Information & Insurance Oversight, *ACA Implementation FAQs - Set 18*, https://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/aca_implementation_faqs18.html (last visited July 13, 2016).

[9] *See* HRSA Funding Announcement 16-057, *Women's Preventive Services* (Nov. 10, 2015) , https://webcache.googleusercontent.com/search?q=cache:Z4blWHpVxKcJ:https://grants.hrsa.gov/2010/Web2External/Interface/Common/EHBDisplayAttachment.aspx%3Fdm_rtc%3D16%26dm_attid%3D57bef52d-5241-4ae3-8c4b-667bdcad3005%26dm_attinst%3D0+&cd=9&hl=en&ct=clnk&gl=us;

[10] HHS, *Interim Final Rules for Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services Under the Patient Protection and Affordable Care Act*, 75 Fed Reg 4126, 41740 (July 19, 2010) , t https://www.gpo.gov/fdsys/pkg/FR-2010-07-19/pdf/2010-17242.pdf.

[11] 42 U.S.C. § 1396d(r)(5).

The AAP convenes a panel of experts for updating the Bright Futures guidelines and provides an opportunity for public comment. The Advisory Committee on Heritable Disorders in Newborns and Children conducts open meetings and allows stakeholders to nominate a condition for the Uniform Screening Panel.

Vaccinations

Recommended child and adult vaccinations are developed by the Advisory Committee on Immunization Practices (ACIP), a group of medical and public health experts convened as part of the U.S. Centers for Disease Control and Prevention (CDC). HHS publishes information on recommended vaccination schedules delineated by age and other factors:

ACIP Recommended Vaccination Schedules	
Adults	**Children**
Adults Immunization Schedule	Infants and Young Children Ages 0 to 6 Years
People with Health Conditions	Children and Teens Ages 7 to 18 Years
College Students and Young Adults	Catch-up Immunization Schedule for Children and Teens Ages 4 Months Through 18 Years
Seniors	
Pregnant Women	

ACIP holds public meetings and works with medical groups, including the AAP, ACOG, the American Academy of Family Physicians (AAFP), and the American College of Physicians (ACP), in developing and updating its recommendations.

Conclusion

Implementation of the ACA's no-cost preventive services and screenings requirements presents both challenges and opportunities for health advocates. Advocates can help increase consumer awareness and file complaints against insurers or providers that unlawfully charge co-pays or other cost sharing for covered services.

Advocates can also improve access to important services and address unmet health care needs by organizing and engaging in the processes for updating recommendations for no-cost health services and screenings. For example, many low-income persons cannot afford PreExposure Prophylaxis (PrEP), a highly effective HIV prevention intervention. Although the CDC issued guidelines in 2014 recommending PrEP to prevent HIV transmission in at-risk populations, the USPSTF has yet to take up the

About Us

The National Health Law Program protects and advances the health rights of low income and underserved individuals. NHeLP advocates, educates and litigates at the federal and state level.

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[12] 42 U.S.C. § 1396o(b)(2)(A). *See also* Jane Perkins and David Machledt, NHeLP, *Medicaid Premiums and Cost Sharing* (March 26, 2014) available at http://www.healthlaw.org/about/staff/david-machledt/all-publications/Medicaid-Premiums-Cost-Sharing.

issue. PrEP and other emerging health care issues should also be on the agenda as ACOG updates the women's preventive services for the first time in five years.