

Employee Benefits Briefing

Preventive Services for Women: New HHS Guidance

On August 1, 2011, the U.S. Department of Health and Human Services (HHS) adopted additional Guidelines for no-cost coverage of women's preventive services under the Patient Protection and Affordable Care Act (PPACA). Under these Guidelines, the additional preventive services must be covered at no cost by nongrandfathered group health plans in plan years that begin on or after August 1, 2012 (i.e., January 1, 2013 for calendar-year plans).

Background

Under Section 2713 of PPACA, new group health plans and group health plans that are not "grandfathered group health plans"¹ are required to provide coverage without co-pays or cost-sharing for specified preventive services. In July 2010, HHS issued regulations implementing this provision of PPACA and outlining the list of preventive services that must be covered at no cost by nongrandfathered plans.² No-cost coverage for these preventive services generally became effective January 1, 2011 for calendar-year plans.

A particular focus of PPACA's preventive services provision is women's preventive services. Thus, the

2010 regulations included no-cost coverage for such services as mammograms, screenings for cervical cancer and prenatal care. The 2010 regulations authorized the development of comprehensive additional guidelines for women's preventive care. In July 2011, the Institute of Medicine (IOM) issued a report recommending expanded coverage for women's preventive services. HHS adopted the IOM recommendations in these additional Guidelines.

Discussion

A. Additional Preventive Services

1. *Well-Woman Visits.* Adult women will have access to an annual well-woman preventive care visit to obtain recommended preventive services, with additional visits if women and their providers determine they are necessary. The Guidelines state that several visits may be needed to obtain all necessary recommended preventive services, depending on a woman's health status, health needs and other risk factors.
2. *Gestational Diabetes Screening.* This screening is for women 24 to 28 weeks pregnant and at the first prenatal visit for women at high risk of developing gestational diabetes.
3. *HPV DNA Testing.* Women who are 30 or older will have access to high-risk human papillomavirus (HPV) DNA testing every

¹ Grandfathered group health plans are group health plans (either insured or self-insured) that were in existence on March 23, 2010, provide an annual notice to participants of intended grandfathered status, maintain adequate records in support of grandfathered status and maintain existing employer/participant cost-sharing ratios within limited parameters.

² The July 2010 list of preventive services that must be covered without co-pays or cost-sharing may be found at: <http://www.healthcare.gov/center/regulations/prevention/taskforce.html>.

three years, regardless of Pap smear results.

4. *STI Counseling; HIV Screening and Counseling.* Annual counseling for sexually active women about HIV and sexually transmitted infections (STIs).
5. *Contraception and Contraceptive Counseling.* Women will have access to all Food and Drug Administration-approved contraceptive methods, sterilization procedures, and patient education and counseling. The covered drugs do not include drugs that cause or induce abortions; however, the covered drugs do include the so-called “morning after” pill. The Guidelines provide an exception for certain religious employers from the requirement to cover contraceptive services.³
6. *Breastfeeding Support, Supplies and Counseling.* Pregnant and postpartum women will have access to comprehensive lactation support and counseling from trained providers. In addition, costs for renting breastfeeding equipment will also be covered.
7. *Domestic Violence Screening.* Screening and counseling for interpersonal and domestic violence will be covered for all women.

B. Reasonable Medical Management, Out-of-Network Cost-Sharing Permitted

The July 2010 regulations provided that group health plans could apply reasonable medical management principles to help define the nature of

the covered preventive services. For example, a group health plan may apply cost sharing for branded prescription drugs that are covered by a particular preventive service if a generic version is available and just as effective and safe. Similarly, a group health plan that offers a network of providers may impose cost-sharing requirements for preventive services delivered by out-of-network providers. The new Guidelines state that the same principles apply to the expanded women’s preventive services.

C. Effective Date

The coverage for these additional preventive services becomes effective for nongrandfathered group health plans in the first plan year that begins on or after August 1, 2012. Thus, for nongrandfathered plans with calendar-year plan years, these additional preventive services will be required to be covered beginning January 1, 2013.

If you have any questions regarding this briefing, please contact **Philip L. Mowery** (312-609-7642) or **Jessica L. Winski** (312-609-7678).

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³ A religious employer is one that: (1) has the inculcation of religious values as its purpose; (2) primarily employs persons who share its religious tenets; (3) primarily serves persons who share its religious tenets; and (4) is a nonprofit organization under Section 6033(a)(1) and Section 6033(a)(3)(A)(i) or (iii) of the Internal Revenue Code.

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