

Employee Benefits & Executive Compensation ADVISORY

July 27, 2010

Agencies Outline Preventive Care Coverage Requirements under PPACA

The Departments of Health and Human Services (HHS), Treasury and Labor (collectively the “Agencies”) issued interim final regulations (“Regulations”) on July 14, 2010, regarding the new preventive care coverage requirements set forth in new Public Health Service Act (PHSA) Section 2713, as added by the Patient Protection and Affordable Care Act (PPACA). This rule is effective for plan years beginning on or after September 23, 2010, and it affects all plans that are not grandfathered health plans. The following is an overview of the Regulations.

Recommended Preventive Services

Generally, group health plans that are not “grandfathered health plans” must cover, by the applicable effective date (see “Applicable Effective Date” below for more detail), and waive all cost-sharing requirements (See “Cost Sharing Requirements” below for more details) for the following “recommended preventive services”:

- Evidence-based items or services with an “A” or “B” rating from the U.S. Preventive Services Task Force (USPSTF);
- Immunizations for routine use in children, adolescents and adults with a recommendation in effect from the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention;
- Evidence-informed preventive care screenings for infants, children and adolescents provided in guidelines supported by the Health Resources and Services Administration (HRSA); and
- Evidence-informed preventive care and screening for women provided in guidelines supported by HRSA and not otherwise addressed by the USPSTF. The Regulations note that HHS is developing these guidelines and expects to issue them no later than August 1, 2011. Recommendations of the USPSTF regarding breast cancer screening, mammography and prevention issued in or around November 2009 are not considered to be current under the regulations.

The complete list of recommendations and guidelines that must be covered by plans is located at <http://www.HealthCare.gov/center/regulations/prevention.html> (the “List”) and will be continually updated to reflect both new recommendations and guidelines and revised or removed guidelines. You will find the current list in Appendix A attached to this overview.

Plans are *not* required to provide coverage (or waive cost-sharing) for any item or service that ceases to be a recommended preventive service, such as if the USPSTF downgrades a recommended preventive service from

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a rating of “B” to a rating of “C” or “D.” Likewise, plans may provide coverage for items and services *in addition* to those included in the recommendations and guidelines (and such services may be subject to cost sharing).

NOTE: The Regulations provide that a plan or issuer may use reasonable medical management techniques to determine the frequency, method, treatment or setting for preventive services, to the extent such specifications are not specifically included in the relevant recommendations or guidelines.

Applicable Effective Date

Non-grandfathered plans must cover the recommended preventive services beginning with plan years beginning on or after September 23, 2010. However, for recommendations or guidelines that went/go into effect after September 23, 2009, specified services must be covered for plan years that begin on or after the date that is one year after the date the recommendation or guideline was/is issued.

Cost Sharing Requirements

Generally, cost sharing for network providers with respect to “recommended preventive services” is prohibited. “Cost sharing,” for purposes of these rules, includes deductibles, co-payments and coinsurance. Cost sharing is permitted for any item or service that ceases to be a recommended preventive service or for services or treatments in addition to those included in the specified recommendations. Also, the Regulations indicate that a plan *may* impose cost-sharing requirements for a treatment not included in the specified recommendations, even if the treatment results from a recommended preventive service. Finally, the regulations clarify that nothing prevents a plan or issuer from using reasonable medical management techniques to determine the frequency, method, treatment or setting for a required preventive care item or service to the extent not specified in the recommendation or guideline.

Example: Child A visits an in-network pediatrician for a preventive care screening. As a result of the preventive care screening, the pediatrician recommends that Child A undergo surgery for a heart disorder. Because the preventive care screening is a recommended preventive service, the plan cannot impose a cost sharing requirement. However, the plan may impose a cost sharing requirement for Child A’s heart surgery, which resulted from the preventive care screening.

Furthermore, the Regulations clarify the cost-sharing requirements when a recommended preventive service is provided during an office visit:

- Cost sharing with respect to the office visit *is prohibited* if . . .
 - the primary purpose of the office visit is the recommended preventive service and the recommended preventive service is NOT billed separately (or tracked separately as individual encounter data).

Example: Child B covered by a group health plan visits an in-network pediatrician to receive an annual physical exam that is a recommended preventive service. During the office visit, the child receives additional items and services that are not recommended preventive services. The provider bills the plan for the office visit. Because the primary purpose for the office visit was to provide recommended preventive services, and the plan was not billed separately for the recommended preventive services, the plan may *not* impose a cost-sharing requirement with respect to the office visit.

- Cost sharing with respect to the office visit *is permitted* if . . .
 - the recommended preventive service is billed separately from the office visit (or is tracked separately as individual encounter data). Although cost sharing with respect to the office visit is permitted, cost sharing with respect to the separately billed/tracked recommended preventive service is not permitted.

Example: Joe, who is covered by a group health plan, visits an in-network health care provider. While visiting the provider, Joe is screened for cholesterol abnormalities with a rating of A or B (i.e., recommended preventive services). The provider bills the plan separately for the office visit and for the laboratory work of the cholesterol screening test. The plan may not impose any cost-sharing requirements with respect to the separately billed laboratory work of the cholesterol screening test. However, the plan may impose cost-sharing requirements for the office visit since it was billed separately from the recommended preventive service.

- the preventive service is *not* billed separately (or is not tracked as individual encounter data separately) from an office visit but the primary purpose of the office visit is *not* the delivery of such an item or service.

Example: Bob visits his network provider for abdominal pain. During the visit, he has a blood pressure screening that is a recommended preventive service. The provider bills the plan for the office visit (i.e., there is not a separate bill for the blood pressure screening). The plan may impose cost sharing on the office visit because the primary purpose of the office visit was not the delivery of a recommended preventive service.

Impact on Network Plans

The Regulations clarify that a network-based plan is not required to provide coverage for recommended preventive services delivered by an out-of-network provider and may impose cost-sharing requirements for any such out-of-network services that are offered.

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APPENDIX A

Current as of July 16, 2010

Grade A and B Recommendations of the United States Preventive Services Task Force:

- Screening for abdominal aortic aneurysm
- Counseling to reduce alcohol misuse
- Screening for anemia
- Aspirin to prevent CVD: men
- Aspirin to prevent CVD: women
- Screening for bacteriuria
- Screening for blood pressure
- Counseling for BRCA screening
- Screening for breast cancer (mammography)
- Chemoprevention of breast cancer
- Counseling for breast feeding
- Screening for cervical cancer
- Screening for chlamydial infection: non-pregnant women
- Screening for chlamydial infection: pregnant women
- Screening for cholesterol abnormalities: men 35 and older
- Screening for cholesterol abnormalities: men younger than 35
- Screening for cholesterol abnormalities: women 45 and older
- Screening for cholesterol abnormalities: women younger than 45
- Screening for colorectal cancer
- Chemoprevention of dental caries
- Screening for depression: adults
- Screening for depression: adolescents
- Screening for diabetes
- Counseling for diet
- Supplementation with folic acid
- Screening for gonorrhea: women
- Prophylactic medication for gonorrhea: newborns
- Screening for hearing loss
- Screening for hemoglobinopathies
- Screening for hepatitis B
- Screening for HIV
- Screening for congenital hypothyroidism
- Iron supplementation in children
- Screening and counseling for obesity: adults
- Screening and counseling for obesity: children
- Screening for osteoporosis
- Screening for PKU
- Screening for Rh incompatibility: first pregnancy visit
- Screening for Rh incompatibility: 24-28 weeks gestation
- Counseling for STIs
- Counseling for tobacco use: adults
- Counseling for tobacco use: pregnant women
- Screening for syphilis: non-pregnant persons
- Screening for syphilis: pregnant women
- Screening for visual acuity in children

Recommended Immunizations (compilation of vaccines on all required schedules):

- Hepatitis B
- Rotavirus
- Diphtheria, Tetanus, Pertussis
- *Haemophilus influenzae* type b
- Pneumococcal
- Inactivated Poliovirus

- Influenza
- Measles, Mumps, Rubella
- Varicella
- Hepatitis A
- Meningococcal
- Human Papillomavirus
- Zoster

Recommendations for Preventive Pediatric Health Care:

- History (Initial/Interval)
- Measurements (Length/ Height and Weight; Head Circumference; Weight for Length; Body Mass Index; Blood Pressure)
- Sensory Screening (Vision/ Hearing)
- Developmental/ Behavioral Assessment (Developmental Screening; Autism Screening; Developmental Surveillance; Psychosocial/Behavioral Assessment; Alcohol and Drug Use Assessment)
- Physician Examination
- Procedures (Newborn Metabolic/ Hemoglobin Screening; Immunization; Hematocrit or Hemoglobin; Lead Screening; Tuberculin Test; Dyslipidemia Screening; STI Screening; Cervical Dysplasia Screening)
- Oral Health
- Anticipatory Guidance

SACHDNC Recommended Uniform Screening Panel CORE CONDITIONS:

- Propionic academia
- Methylmalonic acidemia (methylmalonyl-CoA mutase)

- Methylmalonic acidemia (cobalamin disorders)
 - Isovaleric acidemia
 - 3-Methylcrotonyl-CoA carboxylase deficiency
 - 3-Hydroxy-3-methylglutaric aciduria
 - Holocarboxylase synthase deficiency
 - β -Ketothiolase deficiency
 - Glutaric acidemia type I
 - Carnitine uptake defect/carnitine transport defect
 - Medium-chain acyl-CoA dehydrogenase deficiency
 - Very long-chain acyl-CoA dehydrogenase deficiency
 - Long-chain L-3 hydroxyacyl-CoA dehydrogenase deficiency
 - Trifunctional protein deficiency
 - Argininosuccinic aciduria
 - Citrullinemia, type I
 - Maple syrup urine disease
 - Homocystinuria
 - Classic phenylketonuria
 - Tyrosinemia, type I
 - Primary congenital hypothyroidism
 - Congenital adrenal hyperplasia
 - S,S disease (Sickle cell anemia)
 - S, β thalassemia
 - S,C disease
 - Biotinidase deficiency
 - Classic galactosemia
 - Severe Combined Immunodeficiencies
 - Cystic fibrosis
 - Hearing loss
- SACHDNC Recommended Uniform Screening Panel SECONDARY CONDITIONS:**
- Methylmalonic acidemia with homocystinuria
 - Malonic acidemia
 - Isobutyrylglycinuria
 - 2-Methylbutyrylglycinuria
 - 3-Methylglutaconic aciduria
 - 2-Methyl-3-hydroxybutyric aciduria
 - Short-chain acyl-CoA dehydrogenase deficiency
 - Medium/short-chain L-3-hydroxyacyl-CoA dehydrogenase deficiency
 - Glutaric acidemia type II
 - Medium-chain ketoacyl-CoA thiolase deficiency
 - 2,4 Dienoyl-CoA reductase deficiency
 - Carnitine palmitoyltransferase type I deficiency
 - Carnitine palmitoyltransferase type II deficiency
 - Carnitine acylcarnitine translocase deficiency
 - Argininemia
 - Citrullinemia, type II
 - Hypermethioninemia
 - Benign hyperphenylalaninemia
 - Biotpterin defect in cofactor biosynthesis
 - Biotpterin defect in cofactor regeneration
 - Tyrosinemia, type II
 - Tyrosinemia, type III
 - Various other hemoglobinopathies
 - Galactosepimerase deficiency
 - Galactokinase deficiency
 - T-cell related lymphocyte deficiencies

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