

SB21-016: PROTECTING PREVENTIVE HEALTH CARE COVERAGE

Concerning services related to preventive health care, and, in connection therewith, requiring coverage for certain preventive measures, screenings, and treatments that are administered, dispensed, or prescribed by health care providers and facilities.

Details

Bill Sponsors:	House – Esgar (D) and Mullica (D) Senate – Pettersen (D) and Moreno (D)
Committee:	Senate Health & Human Services
Bill History:	2/16/2021- Introduced in Senate
Next Action:	3/16/2021- Hearing in Senate Health & Human Services

Bill Summary

The bill would codify into Colorado state law several preventive health care services provided under the federal “Patient Protection and Affordable Care Act” (ACA). Such codification would require Colorado health insurance carriers to provide these services without policy deductibles, copayments, or coinsurance. The bill expands preventive health services to include screenings for osteoporosis and urinary incontinence, as well as for the counseling, prevention, screening, and treatment of a sexually transmitted infection (STI). The bill additionally authorizes reimbursement for family planning services and family-planning-related services provided by any licensed health care provider.

Issue Summary

Affordable Care Act

Signed into federal law in 2010, the Patient Protection and Affordable Care Act (ACA) expanded access to health insurance in the United States. Specifically, the ACA allowed for the expansion of Medicaid to all previously non-Medicare eligible individuals under age 65 with incomes up to 133% of the Federal Poverty Level (FPL). The legislation also codified four pillars of protections for people: guaranteed issue, adjusted community rating, prohibition against preexisting condition exclusions, and essential health benefits.¹ Under the essential health benefits, certain preventive and wellness services must be covered without imposing any cost-sharing on the patients receiving those services.^{2,3}

The Supreme Court will decide whether to strike down the ACA as unconstitutional, as the previous Trump Administration and 18 Republican state attorneys general urged.⁴ At the center of the attorneys’ general argument is that the Supreme Court’s 2012 decision in *National Federation of Independent Business v. Sebelius* upheld under Congress’ taxing power the ACA’s requirement that individuals have coverage or pay a penalty, and the 2017 tax law zeroed out that penalty. Without the tax, they claim, the coverage requirement is unconstitutional, making the rest of the ACA also unlawful. If the ACA is declared unconstitutional by the Supreme Court, the four pillars of protections would also fall. If states have not

¹ KFF, Summary of the Affordable Care Act, Apr 25, 2013. <https://www.kff.org/health-reform/fact-sheet/summary-of-the-affordable-care-act/>

² HealthCare.gov, Preventive Health Services. <https://www.healthcare.gov/coverage/preventive-care-benefits/>

³ KFF, Preventive Services Covered by Private Health Plans under the Affordable Care Act. <https://www.kff.org/health-reform/fact-sheet/preventive-services-covered-by-private-health-plans/>

⁴ Center on Budget and Policy Priorities (2021). *Suit Challenging ACA Legally Suspect But Threatens Loss of Coverage for Tens of Millions*. Retrieved from <https://www.cbpp.org/research/health/suit-challenging-aca-legally-suspect-but-threatens-loss-of-coverage-for-tens-of>

codified these protections, it is possible that state-regulated insurance carriers in those states would opt to not provide the same coverage as under the ACA requirements.

Preventive Services Covered Under the ACA

The following are the preventive care benefits for adults⁵:

- Abdominal aortic aneurysm one-time screening for men of certain ages who have ever smoked
- Alcohol misuse screening and counseling
- Aspirin use to prevent cardiovascular disease and colorectal cancer
- Blood pressure screening
- Cholesterol screening for adults of certain ages or at higher risk
- Colorectal cancer screenings for adults 50-75
- Depression screenings
- Diabetes (Type 2) screening for adults 40-70 who are overweight or obese
- Diet counseling for adults at higher risk for chronic disease
- Falls prevention (with exercise or physical therapy and vitamin D use) for adults 65+, living in a community setting
- Hepatitis B & C screening for adults at high risk
- HIV screening for everyone ages 15 to 65, and other ages at increased risk
- Immunization vaccines for adults⁶
- Lung cancer screening for adults 55-80 at high risk
- Obesity screening and counseling
- Sexually transmitted infection (STI) prevention counseling for adults at higher risk
- Statin prevention medication for adults 40-75 at high risk
- Syphilis screening for adults at high risk
- Tobacco use screening for all adults and cessation interventions for tobacco users
- Tuberculosis screening

The following are the preventive care benefits for women ⁷

- Anemia screening on a routine basis, for pregnant women or women who may become pregnant
- Breast cancer mammography screenings every 1 to 2 years for women over 40 and genetic testing for those at higher risk
- Breastfeeding comprehensive support and counseling from trained providers, and access to breastfeeding supplies
- Cervical cancer screening
- Chlamydia infection screening for younger women and other women at higher risk
- Contraception
- Domestic and interpersonal violence screening and counseling for all women
- Folic acid supplements for women who may become pregnant
- Gestational diabetes screening for women 24-28 weeks pregnant and those at high risk
- Gonorrhea screening for all women at higher risk
- Osteoporosis screening for women over age 60 depending on risk factors
- Preeclampsia prevention and screening
- Rh incompatibility screening for all pregnant women and follow-up testing for those at higher risk
- Expanded tobacco intervention and counseling for pregnant tobacco users
- Urinary tract or other infection screening
- Urinary incontinence screening for women yearly
- Well-woman visits to get recommended services for women under 65

⁵ HealthCare.gov, Preventive Care Benefits for Adults. <https://www.healthcare.gov/preventive-care-adults/>

⁶ Doses, recommended ages, and recommended populations vary

⁷ HealthCare.gov, "Preventive Care Benefits for Women". <https://www.healthcare.gov/preventive-care-women/>

In addition to the select benefits listed above there are also benefits outlined for pregnant women or women who may become pregnant and for children.^{4,8}

Identifying and Categorizing Preventive Services

The ACA requires plans to cover the services listed in the U.S. Department of Health and Human Services' (HHS) comprehensive list of preventive services.⁹ Such required preventive services are identified and established through recommendations made by the Advisory Committee on Immunization Practices (ACIP), the Health Resources and Services Administration (HRSA), HRSA's Bright Futures Project, the National Academy of Medicine (NAM) committee on women's clinical preventive services, and the U.S. Preventive Services Task Force (USPSTF).¹⁰

Advisory Committee on Immunization Practices (ACIP). ACIP is a federal advisory committee that was established under Section 222 of the Public Health Service Act¹¹, as amended.¹² ACIP, composed of medical and public health experts, provides advice and guidance to the Director of the Centers for Disease Control and Prevention (CDC) and the Secretary of the Department of Health and Human Services (HHS) regarding the use of vaccines.¹³

Health Resources and Services Administration (HRSA). An agency of HHS, HRSA the primary federal agency for improving health care to people who are geographically isolated, economically or medically vulnerable. Its programs help those in need of high quality primary health care, people with HIV/AIDS, pregnant women, and mothers.¹⁴ HRSA's *Bright Futures Program* aims to improve health outcomes for the nation's infants, children, and adolescents by increasing the quality of primary and preventive care through maintenance and dissemination of age-specific, evidence-driven clinical guidelines.¹⁵

National Academy of Medicine (NAM). Founded in 1970 as the Institute of Medicine (IOM), the National Academy of Medicine (NAM) is one of three academies that make up the National Academies of Sciences, Engineering, and Medicine. NAM's mission is to improve health for all by advancing science, accelerating health equity, and providing independent, authoritative, and trusted advice nationally and globally.¹⁶ At the request of HHS, NAM convened the *Committee on Women's Clinical Preventive Services* in 2011 to identify critical gaps in preventive services for women, as well as measures to further ensure women's health and well-being. The Committee identified eight preventive services for women be added to the services that health plans will cover at no cost to patients under the ACA.¹⁷ In 2016, HRSA awarded a five-year cooperative agreement to the American College of Obstetricians and Gynecologists (ACOG). ACOG subsequently created the *Women's Preventive Services Initiative*, a coalition of clinician, academic, and consumer-focused health professional organizations, to update recommendations for the Women's Preventive Services Guidelines in accordance with the model created by the NAM Committee on Women's Clinical Preventive Services.¹⁸

⁸ HealthCare.gov, "Coverage for Children's Preventive Health Services," <https://www.healthcare.gov/preventive-care-children/>

⁹ The National Academies, "IOM Report Recommends Eight Additional Preventive Health Services to Promote Women's Health", July 19, 2011.

<https://www.nationalacademies.org/news/2011/07/iom-report-recommends-eight-additional-preventive-health-services-to-promote-womens-health>

¹⁰ KFF, Preventive Services Covered by Private Health Plans under the Affordable Care Act. <https://www.kff.org/health-reform/fact-sheet/preventive-services-covered-by-private-health-plans/>

¹¹ 42 U.S.C. §217a

¹² Centers for Disease Control and Prevention, "ACIP Charter", July 14, 2020. <https://www.cdc.gov/vaccines/acip/committee/charter.html>

¹³ Centers for Disease Control and Prevention, "Advisory Committee on Immunization Practices Policies and Procedures", December 2018. <https://www.cdc.gov/vaccines/acip/committee/downloads/Policies-Procedures-508.pdf>

¹⁴ Health Resources and Services Administration, "About HRSA," October 2019. <https://www.hrsa.gov/about/index.html>

¹⁵ Health Resources and Services Administration, "Bright Futures", December 2020. <https://mchb.hrsa.gov/maternal-child-health-topics/child-health/bright-futures.html>

¹⁶ National Academy Of Medicine, "About the National Academy of Medicine", 2021. <https://nam.edu/about-the-nam/>

¹⁷ The National Academies, "IOM Report Recommends Eight Additional Preventive Health Services to Promote Women's Health", July 19, 2011.

<https://www.nationalacademies.org/news/2011/07/iom-report-recommends-eight-additional-preventive-health-services-to-promote-womens-health>

¹⁸ WPSI, "Overview of the Women's Preventive Services Initiative", 2020. <https://www.womenspreventivehealth.org/about/>

U.S. Preventive Services Task Force (USPSTF). The USPSTF, administered by the Agency for Healthcare Research and Quality (AHRQ), is an independent panel of private-sector experts in primary care and prevention that conducts assessments of scientific evidence of the effectiveness of a broad range of clinical preventive services, including screening, counseling, and preventive medications. It provides evidence-based recommendations for the use of preventive services, which may vary depending on age, gender, and risk factors for disease, among other considerations. Services are given a grade of “A”, “B”, “C”, “D” or an “I” Statement. Services graded “A” or “B” are recommended. For services graded “C”, the USPSTF makes no recommendation for or against their routine use. For services graded “D”, the USPSTF recommends against routinely providing the service to asymptomatic patients, based on evidence that the service is not beneficial, and may be harmful. “I” Statements are provided when evidence is insufficient to support a recommendation¹⁹

Osteoporosis Screening

Since 2018, the USPSTF has recommended screening for osteoporosis in women age 65 years and older, and in women younger than age 65 years who have been through menopause and are at increased risk. This is a “B” recommendation. Thus, the USPSTF expresses a certainty that the net benefit is moderate to substantial. However, the USPSTF concludes that the current evidence is insufficient to assess the balance of benefits and harms of screening for osteoporosis to prevent osteoporotic fractures in men; this is an “I” statement.²⁰

After the age of 50, the prevalence of osteoporosis is greater in women than in men (15.4% vs 4.3%, respectively). The vast majority of studies have been conducted in postmenopausal women exclusively. Only 2 studies were conducted in men. In one of these two studies, the number of fractures in the study was small and the study was stopped early due to concerns over the medication’s negative side effects found in animal studies. Thus, the USPSTF found that the evidence is inadequate to assess the effectiveness of drug therapies in reducing subsequent fracture rates in men without previous fractures. Treatments that have been proven effective in women cannot necessarily be presumed to have similar effectiveness in men, and the direct evidence is too limited to draw definitive conclusions. The USPSTF has concluded that the current evidence is insufficient to assess the balance of benefits and harms of screening for osteoporosis in men. However, the USPSTF found convincing evidence that bone measurement tests are accurate for detecting osteoporosis and predicting osteoporotic fractures in both women and men.²¹

Urinary Incontinence Screening

HRSA promulgates the “Women’s Preventive Services Guidelines,” which are services that must be covered under the ACA.²² Under these guidelines, women should be screened for urinary incontinence annually. Given the prevalence of urinary incontinence, the fact that many women do not volunteer symptoms, and the multiple risk factors, annual screening is merited.

Sexually Transmitted Infections (STIs) Screening

STI Behavioral Counseling. The USPSTF recommends behavioral counseling for all sexually active adolescents and for adults who are at increased risk for sexually transmitted infections (STIs) via multiple concurrent

¹⁹ American College of Physicians, Inc., “Medicare-Covered Preventive Services”, 2013

https://www.acponline.org/system/files/documents/advocacy/where_we_stand/assets/iii8-medicare-covered-preventive-services.pdf

²⁰ HealthyPeople.gov, “Osteoporosis to Prevent Fractures: Screening”, Oct 8, 2020. <https://www.healthypeople.gov/2020/tools-resources/evidence-based-resource/osteoporosis-to-prevent-fractures-screening#:~:text=The%20U.S.%20Preventive%20Services%20Task,the%20USPSTF%20recommends%20the%20service.>

²¹ US Preventive Services Task Force, “Osteoporosis to Prevent Fractures: Screenings”, June 26, 2018.

<https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/osteoporosis-screening>

²² Health Resources and Services Administration, “Women’s Preventive Services Guidelines”, 2019. <https://www.hrsa.gov/womens-guidelines-2019>

This Legislation

Mandatory Coverage Provisions for State-Regulated Private Health Insurance Plans

The bill adds HRSA guidelines as a source for requiring coverage for a particular preventive health care service. Currently, state statute only lists the USPSTF.

The bill removes the word “unhealthy” from the section relating to alcohol use screening and adds counseling for alcohol use. The bill adds language to include expanded tobacco intervention and counseling for pregnant individuals who use tobacco products. The bill adds the following services to statute to receive mandatory coverage:

- Abdominal aortic aneurysm screening
- Aspirin-preventive medication
- Blood pressure screening
- Diabetes screening for adults and gestational diabetes screening
- Health diet and physical activity counseling to prevent cardiovascular disease
- Falls prevention for adults over the age of 65 who live in a community setting
- Hepatitis B and Hepatitis C screening
- HIV screening
- Lung cancer screening
- Obesity screening and counseling
- Counseling, prevention, screening, and treatment of a STI³¹, provided regardless of gender
- Statin preventive medication for adults
- Tuberculosis screening
- Anemia screening on a routine basis
- Comprehensive breastfeeding support and counseling from trained providers and access to breastfeeding supplies for pregnant and nursing individuals
- Folic acid supplements for individuals who may become pregnant
- Preeclampsia screening and treatment in pregnant individuals, including blood pressure measurements throughout pregnancy and low-dose aspirin after 12 weeks gestation for pregnant women who are at high risk
- Rh incompatibility screening for all pregnant individuals and follow-up testing for individuals at higher risk for incompatibility
- Urinary tract, yeast, or other infection screening
- Domestic and interpersonal violence screening and counseling
- Osteoporosis screening for all adults over the age of 60
- Annual urinary incontinence screening
- All contraception
- Family planning and family planning-related services
- Any other preventive services included in the A or B recommendations of the USPSTF or HRSA guidelines or as required by federal law

These added services are not required for grandfathered health benefit plans.

STI Treatment for Minors

Currently, if a minor requests that a health provider or facility perform an exam for a STI then they are to treat the minor, if necessary, for a STI as well as discuss prevention measures. The bill adds that the provider

³¹ Defined in C.R.S. § 25-4-402(10) as "Sexually transmitted infection" refers to chlamydia, syphilis, gonorrhea, HIV, and relevant types of hepatitis, as well as any other sexually transmitted infection, regardless of mode of transmission, as designated by the state board by rule upon making a finding that the particular sexually transmitted infection is contagious.

or facility is to administer, dispense, or prescribe preventive measures or medications where applicable. The consent of a parent or legal guardian is not required for the minor to receive STI preventive care.

Medicaid Family Planning Services

Currently, when medical or diagnostic services are provided by a certified family planning clinic, Medicaid is to reimburse those services. The bill amends this language to state when family planning or family planning-related services are provided under Medicaid, no matter the facility, Medicaid is to reimburse for those services. These services are not subject to policy deductibles, copayments, or coinsurance. Any recipient may obtain these services from any licensed health care provider, including but not limited to a doctor of medicine, doctor of osteopathy, physician assistant, or advanced practice nurse. The enrollment of a recipient in a managed care organization, or a similar entity, does not restrict the patient's choice of the licensed provider from whom they can receive these services.

Family planning-related services means any medically necessary health care, counseling services, or medication focused on or related to the treatment of medical conditions routinely diagnosed during a family planning visit. This includes treatment for a urinary tract infection, the testing, diagnosis, treatment, and prevention of STIs or other infections/conditions of the urogenital system, and the treatment of medical complications resulting from a family planning visit.

Family planning services means any health care or counseling services focused on preventing, delaying, or planning for a pregnancy, which must include medically necessary evaluation or preventive services

This bill takes effect January 1, 2023.

Reasons to Support

The bill would ensure Coloradans can continue to obtain the evidence-based preventive services they are now accustomed to receiving under the ACA, regardless of the fate of the ACA. By ensuring the regularity, affordability, and accessibility of preventive care, this bill helps to maximize the quality of health care in Colorado. Such maintenance of preventive care is key to reducing expensive bills and reductions in coverage that weigh heavily on the budgets of patients, providers, and the state.

Additionally, by expanding the range of covered preventive services (e.g. osteoporosis and urinary incontinence screenings, as well as the counseling, prevention, screening, and treatment of any STI), this bill ensures Coloradans receive more holistic and comprehensive care. With more services covered by insurance, fewer medical conditions and patients are likely to fall through the cracks. The bill also increases the accessibility of family planning services, as Medicaid patients would no longer be limited to family planning clinics. Such accessibility is important for patient care, especially in communities that suffer from a shortage of medical providers.

Supporters

- AMGEN
- Colorado Academy of Family Physicians
- Colorado Children's Campaign
- Colorado Consumer Health Initiative
- Colorado Organization for Latina Opportunity and Reproductive Rights (COLOR)
- Gilead Sciences Inc.
- Interfaith Alliance
- Planned Parenthood of the Rocky Mountains
- Violence Free Colorado

Reasons to Oppose

The bill requires preventive services to be expanded beyond the current ACA list of preventive services recommended by USPSTF, HRSA, and NAM to include osteoporosis screenings for men, urinary incontinence screenings for men, and expanded coverage for the counseling, prevention, screening, and treatment of any STI. The USPSTF has concluded that the current evidence is insufficient to assess the balance of benefits and harms of screening for osteoporosis to prevent osteoporotic fractures in men. Similarly, the bill requires coverage of STI screenings for both women and men, but the USPSTF has also found no identifiable benefit for men to receive some STI screenings. Additionally, the bill adds STI treatment to the list, much of which is currently not required to be covered under the ACA. Requiring screenings that have not been proven to be necessary for good health outcomes would unnecessarily strain the resources of both insurance companies and providers, while possibly raising the premiums for all enrollees.

Due to these additions, the bill may not decrease overall health care costs for patients. Insurance companies may raise premiums to cover the costs of the wider net of cost-sharing free preventive services. The increased amount of requirements and regulations could be burdensome for insurance companies. The bill does not consider whether the state has sufficient medical provider capacity to match a potential increase in demand for the proposed newly covered services.

Opponents

- Any opposition has not yet been made public

About this Analysis

This analysis was prepared by Health District of Northern Larimer County staff to assist the Health District Board of Directors in determining whether to take an official stand on various health-related issues. The Health District is a special district of the northern two-thirds of Larimer County, Colorado, supported by local property tax dollars and governed by a publicly elected five-member board. The Health District provides medical, mental health, dental, preventive and health planning services to the communities it serves. This analysis is accurate to staff knowledge as of date printed. For more information about this analysis or the Health District, please contact Alyson Williams, Policy Coordinator, at (970) 224-5209, or e-mail at awilliams@healthdistrict.org.
