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Preventive Care Guidelines for Women

The Affordable Care Act (ACA) requires non-grandfathered health plans to cover certain preventive health services without imposing cost-sharing requirements for the services. The ACA's preventive care mandate generally became effective for plan years beginning on or after Sept. 23, 2010.

In August 2011, the Department of Health and Human Services (HHS) issued additional preventive care guidelines for women. These additional guidelines, which are generally effective for **plan years beginning on or after Aug. 1, 2012**, require non-grandfathered health plans to cover women's preventive health services (such as well-woman visits, breastfeeding support, domestic violence screening and contraceptives) without charging a copayment, a deductible or coinsurance.

Special rules regarding contraceptive coverage apply to religious employers, such as churches, and other religious-based institutions, such as schools, hospitals, charities and universities. Please read below for more information on how the contraceptive coverage requirement applies to these organizations.

BACKGROUND

For plan years beginning on or after Sept. 23, 2010, non-grandfathered group health plans must cover certain preventive health services without any cost-sharing. The preventive care mandate does not apply to grandfathered plans. In July 2010, HHS, along with the Departments of Labor and the Treasury (Departments), issued interim final rules relating to coverage of preventive health services. The interim final rules identified the following recommended preventive health services as those that must be covered without cost-sharing requirements:

- Evidence-based items or services that have in effect a rating of A or B in the current recommendations of the United States Preventive Services Task Force (USPSTF), including certain preventive care for women, such as mammograms, cervical cancer screenings and prenatal care;
- Immunizations for routine use in children, adolescents and adults that are currently recommended by the Centers for Disease Control and Prevention (CDC) and included on the CDC's immunization schedules;
- Evidence-informed preventive care and screenings for infants, children and adolescents, as provided for in the Health Resources and Services Administration (HRSA) guidelines; and
- Evidence-informed preventive care and screening for women, as provided in guidelines supported by HRSA, which were required to be developed by August 2011.

More information on the ACA's preventive care mandate, including specific information on the covered preventive health services, is available at: www.healthcare.gov/what-are-my-preventive-care-benefits.

COVERAGE GUIDELINES

On Aug. 1, 2011, HHS issued the HRSA-supported preventive care guidelines for women to fill the gaps in the preventive health services guidelines for women. According to HHS, these guidelines will help ensure that women receive a comprehensive set of preventive health services without having to pay a copayment, a deductible or coinsurance.

Preventive Care Guidelines for Women

Non-grandfathered health plans must include these services without cost-sharing for **plan years beginning on or after Aug. 1, 2012**, subject to the contraceptive coverage exception described below for religious employers.

Covered Health Services

The preventive care guidelines for women include the following health services:

- *Anemia screening* on a routine basis for pregnant women
- *Breast cancer genetic test counseling (BRCA)* for women at higher risk for breast cancer
- *Breast cancer mammography screenings* every one to two years for women over age 40
- *Breast cancer chemoprevention counseling* for women at higher risk
- *Breastfeeding comprehensive support and counseling* from trained providers and access to breastfeeding supplies, for pregnant and nursing women
- *Cervical cancer screening* for sexually active women
- *Chlamydia infection screening* for younger women and other women at higher risk
- *Contraception* for FDA-approved contraceptive methods, sterilization procedures, and patient education and counseling, as prescribed by a health care provider for women with reproductive capacity (not including abortifacient drugs). This does not apply to health plans sponsored by certain exempt religious employers
- *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 to 28 weeks pregnant and those at high risk of developing gestational diabetes
- *Gonorrhea screening* for all women at higher risk
- *Hepatitis B screening* for pregnant women at their first prenatal visit
- *HIV screening and counseling* for sexually active women
- *Human Papillomavirus (HPV) DNA test* every three years for women with normal cytology results who are 30 or older
- *Osteoporosis screening* for women over age 60 depending on risk factors
- *Rh incompatibility screening* for all pregnant women and follow-up testing for women at higher risk
- *Sexually transmitted infections counseling* for sexually active women
- *Syphilis screening* for all pregnant women or other women at increased risk
- *Tobacco use screening and interventions* for all women, and expanded counseling for pregnant tobacco users
- *Urinary tract or other infection screening* for pregnant women
- *Well-woman visits* to get recommended services for women under age 65

According to HHS, health plans may use reasonable medical management techniques for women's preventive care to help define the nature of the covered service, consistent with guidance provided in the interim final rules. For

example, health plans may control costs and promote efficient delivery of care by continuing to charge cost-sharing for brand-name drugs if a safe and effective generic version is available. In addition, the interim final rules confirmed that plans may continue to impose cost-sharing requirements on preventive services that employees receive from out-of-network providers.

On Sept. 24, 2013, the USPSTF issued new recommendations with respect to breast cancer. Specifically, the USPSTF revised its "B" recommendation regarding medications for risk reduction of primary breast cancer in women. The new recommendation states:

> "The USPSTF recommends that clinicians engage in shared, informed decision-making with women who are at increased risk for breast cancer about medications to reduce their risk. For women who are at increased risk for breast cancer and at low risk for adverse medication effects, clinicians should offer to prescribe risk-reducing medications, such as tamoxifen or raloxifene."

On Jan. 9, 2014, the Departments issued an FAQ clarifying the changes that plans must make in order to comply with the new recommendation. According to the FAQ, for **plan or policy years beginning on or after Sept. 24, 2014**, (one year after the date the recommendation was issued) non-grandfathered group health plans and non-grandfathered health insurance coverage offered in the individual or group market will be required to cover these risk-reducing medications for applicable women without cost sharing subject to reasonable medical management.

Contraceptive Services and Religious Employers

Exemption

On Aug. 3, 2011, HHS issued an amendment to the interim final rules to allow certain nonprofit religious employers offering health coverage, such as churches, to decide whether or not to cover contraceptive services, consistent with their beliefs.

A final rule regarding contraceptive coverage and religious employers was issued on June 28, 2013. This rule finalizes the exemption to the contraceptive coverage requirement for group health plans of certain nonprofit religious employers. To qualify for the exemption, the employer must be a nonprofit entity that is referred to in section 6033(a)(3)(A)(i) or (iii) of the Internal Revenue Code. This definition primarily includes churches, other houses of worship and their affiliated organizations.

Temporary Safe Harbor

HHS created an enforcement safe harbor for group health plans sponsored by nonprofit organizations that do not provide some or all of the required contraceptive coverage (consistent with state law) because of the organization's religious beliefs. This safe harbor applies to religious organizations that do not qualify for the exemption, such as schools, charities, hospitals and universities. It applies to plan years beginning before Jan. 1, 2014. More information on the temporary safe harbor is available in a bulletin prepared by HHS.

Accommodation Approach

The final rule provides accommodations for nonprofit religious organizations that do not qualify for the exemption but that object to contraceptive coverage on religious grounds. This accommodation approach is effective for plan years beginning on or after Jan. 1, 2014.

An organization eligible for the accommodation is one that:

- Opposes providing coverage for some or all of any contraceptive services which are required to be covered on account of religious objections;
- Is organized and operates as a nonprofit entity;

- Holds itself out as a religious organization; and
- Self-certifies that it meets these criteria (HHS has provided a self-certification form for this purpose).

Under the accommodation approach, eligible organizations will not have to contract, arrange, pay or refer for any contraceptive coverage to which they object on religious grounds. However, separate payments for contraceptive services will be provided to female employees by an independent third party, such as an insurance company or third-party administrator (TPA), directly and free of charge.

An organization seeking to be treated as an eligible organization needs only to self-certify that it is an eligible organization, provide the issuer or TPA with a copy of the self-certification and satisfy the recordkeeping and inspection requirements.

In addition, there are special rules for religious nonprofit organizations that are institutions of higher education. If this type of organization arranges for student health insurance coverage, it is eligible for an accommodation comparable to the type available for a religious organization with an insured group health plan.