



OFFICE OF
INSURANCE COMMISSIONER

To: All authorized health carriers

Re: Coverage of preventative services under the Affordable Care Act and Washington state law

In [Braidwood Management, Inc. v. Becerra](#), No. 4:20-cv-00283-O (N.D. Tex.), a federal district court judge in Texas recently held that compulsory preventive care coverage requirements with an "A" or "B" rating by the U.S. Preventive Health Services Task Force made on or after March 23, 2010 violate the Appointments Clause of the U.S. Constitution and enjoined the federal Department of Health and Human Services from implementing or enforcing the compulsory preventive care mandates in the future. The Court also held that the requirement to cover PrEP and associated services violated certain plaintiffs' rights under the federal Religious Freedom Restoration Act.

It is possible that the Department of Health and Human Services will appeal the district court decision. If this case is appealed, it is not clear whether the district court's decision will be stayed on appeal.

[RCW 48.43.047](#) was enacted in 2018. It was a component of [ESHB 1523](#), which imbedded a number of Affordable Care Act provisions into Washington state law. RCW 48.43.047 requires that fully-insured health plans issued on or after June 7, 2018, must, at a minimum, provide coverage for the same preventive services required to be covered under 42 U.S.C. Sec. 300gg-13 (2016) and any federal rules or guidance in effect on December 31, 2016, implementing that section. These services must be covered without cost-sharing.

The U.S. Preventive Health Services Task Force engages in a rigorous process to identify those preventive services that are most effective. The ability to access these services with no cost sharing breaks down a key barrier to receiving appropriate care. This element should remain imbedded in health plans offered in our state. Plan Year 2023 filings already include coverage of these services. At this time, my office is asking each carrier offering health plans in Washington state whether they plan to continue to offer all services with an "A" or "B" rating from the U.S. Preventive Health Services Task Force without cost sharing in their 2024 health plan filings, even in the absence of a stay.

Please submit your response via e-mail to policy@oic.wa.gov on or before April 11, 2023.

Sincerely,

A handwritten signature in black ink that reads "Mike Kreidler".

Mike Kreidler