

Most Major Insurers to Continue Preventive Care Services

Insurer trade groups say services will be preserved while litigation over no-cost coverage requirement is ongoing

By [Stephanie Armour](#)

April 20, 2023 8:00 am ET



Preventive healthcare services include mammograms and cancer screenings. Photo: Heather Charles/Chicago Tribune/Getty Images

The majority of insurers in the U.S. don't expect to drop no-cost preventive healthcare services as a lawsuit challenging the Affordable Care Act requirement works its way through the courts, according to a letter to lawmakers from the six trade groups representing the insurance industry.

Their decision was outlined Wednesday in a letter by trade groups to House and Senate Democratic health committee leaders, who on April 12 wrote to a dozen of the nation's largest health insurers and trade associations asking whether they intend to cover all recommended preventive services without cost-sharing until all appellate review in the case is concluded.

“The overwhelming majority do not anticipate making changes to no-cost share preventive services, and do not expect disruptions in coverage of preventive care, while the case proceeds through the courts,” according to the letter signed by such trade groups as America’s Health Insurance Plans and the American Benefits Council.

The inquiry from congressional lawmakers underscores the growing concern that litigation, which is likely to wind up before the U.S. Supreme Court, could result in more than 150 million Americans losing access to many no-cost health screenings. Under the ACA, certain preventive care services are required to be covered with no out-of-pocket costs to consumers. A lawsuit challenged that requirement, and a district court judge [ruled in September](#) that the way a federal task force determines which services are covered is unconstitutional.

In March, Judge Reed O’Connor of the U.S. District Court for the Northern District of Texas [issued a nationwide injunction](#) striking down the requirement that commercial insurers cover screenings recommended by a federal task force.

The task force’s recommendations have led to no-cost coverage of such services as mammograms and screenings for colon cancer, HIV, cervical cancer and gestational diabetes.

Judge O’Connor, who was appointed by George W. Bush, had earlier ruled that the requirement that the Preventive Services Task Force’s recommendations be covered by most health plans [violates the Constitution](#). He said the task force must be appointed by the president and confirmed by the Senate, rather than selected as volunteers.

Attorneys for the Department of Health and Human Services filed a notice of appeal with the Fifth Circuit Court of Appeals. The Justice Department, meanwhile, has asked for Judge O’Connor’s decision to be stayed as the case goes through the courts. A decision on the Justice Department request is expected Thursday.



Judge Reed O'Connor issued his nationwide injunction in March. Photo: United States Courts

The lawsuit, [initially brought by](#) six individuals and two companies opposed to the ACA requirements, also has some Democratic state lawmakers rushing to preserve certain preventive care coverage.

Democratic Michigan Gov. Gretchen Whitmer this month secured agreements with insurers representing all of the fully insured market in the state to maintain no-cost preventive services until the end of the lawsuit's legal process. The agreements with 17 insurers apply to individual, small and large group markets, which includes plans sold on the ACA exchanges and affect more than 2 million consumers.

In Illinois, Democratic Gov. J.B. Pritzker said he would work with state lawmakers and the state Department of Insurance to ensure continued coverage of preventive health services, saying in a statement that "Illinoisans will not go without essential cancer and diabetes screenings, vision tests, and PrEP/PEP access to satisfy a right-wing agenda." PrEP/PEP refers to medication to help prevent the risk of contracting HIV.

And in California, the insurance commissioner and some state lawmakers are using the Texas judge's decision to try to rally support for legislation that would strengthen state preventive care requirements.

"We need to act to prevent Californians from the harmful decisions of these activist conservative judges," Democratic Assemblymember Rick Chavez Zbur said in a statement.

Fifteen states already have some protections in place to preserve preventive care with no out-of-pocket costs because they passed legislation after Republicans in 2017 tried to repeal the ACA.

The state protections apply to the individual market, but employers with self-funded health plans don't have to comply with state insurance laws.

States that take action to protect no-cost preventive care could also wind up paying for them, said Sabrina Corlette, co-director of the Center on Health Insurance Reforms at Georgetown University. The ACA says states have to cover costs if they enact a benefit mandate that goes beyond the essential benefits required by law.

"It could give state lawmakers pause," she said. "The federal government should put out clear guidance."

HHS didn't respond to emails seeking comment on whether guidance would be published.

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Write to Stephanie Armour at Stephanie.Armour@wsj.com

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Appeared in the April 21, 2023, print edition as 'Insurers To Retain Preventive Coverage'.