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Texas Court Ruling Affects ACA Preventive Care Mandate

A Texas federal court recently held that the Affordable Care Act ("ACA")'s first dollar preventive care coverage requirement violates the Constitution in part. As background, preventive care covered by the ACA's first dollar mandate has four different sources:

- Preventive services that receive an "A" or "B" recommendation from the U. S. Preventive Services Task Force ("USPSTF");
- Immunizations recommended by the CDC Advisory Committee on Immunization Practices ("ACIP");
- Guidelines issued by the Health Resources and Services Administration ("HRSA") with respect to infants, children and adolescents for preventive care and screening;
- HRSA preventive care and screening guidelines for women (including contraception coverage).

Under the ACA, preventive services falling into the above categories must be covered by the health plan without cost-sharing.

The Texas Court held that the USPSTF's post-ACA recommendations (those recommendations made after March 23, 2010) violate the U.S. Constitution because of the way the members of the USPSTF are appointed. The 2010 preventive care recommendations that would be affected by this ruling include, but are not limited to, the PrEP mandate (which covers treatment for the prevention of HIV), colonoscopies for individuals aged 45-50; statin use for certain individuals with cardiovascular risk, unhealthy drug use screening, and Hepatitis C screening. Preventive care covered by the ACA based on pre-ACA USPSTF recommendations (i.e., colonoscopies after age 50) and all ACIP and HRSA recommendations are not affected by this ruling.

The Texas court's ruling has been appealed. At this point, it is expected that most carriers and plans will continue to cover all recommended preventive care until the issue is settled. Stay tuned for further updates.

Please visit www.moreton.com/news-events/ for more information and to view other client alerts. This Client Alert was written by Carolyn Cox, who provides our clients with compliance services. For additional questions, please contact Carolyn at 801-715-7110 or ccox@moreton.com.

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