Supreme Court to Hear Health Care Case on No-Cost Access to Preventive Services

Currently, insurance must cover certain preventive care, such as cancer screenings, heart statins and PrEP for HIV. Will the Supreme Court nix the mandate?

January 13, 2025 By Trent Straube

The Supreme Court agreed to hear a challenge to the law requiring health insurance to cover certain preventive services at no cost, reports CNN.

Under the current guidelines of the Affordable Care Act (ACA, or Obamacare), the experts of the U.S. Preventive Services Task Force (USPSTF) grade preventive services; services that earn an A or B must be covered by health insurance plans. Covered services range from pre-exposure prophylaxis (PrEP) to prevent HIV, certain cancer and diabetes screenings, heart statins, some contraceptives, smoking cessation, tests to detect hepatitis and sexually transmitted infections and more. (For a complete list of services with an A or B grade, visit USPreventiveServicesTaskForce.org.)

Previous court rulings have found this USPSTF system to be unconstitutional. The Supreme Court will rule on the coverage mandate.

The current case going before the Supreme Court stems back to the 2020 Texas lawsuit Braidwood v. Becerra, in which a business and several individuals challenged the mandate to cover these prevention services, notably PrEP. The challenge read in part: “The PrEP mandate forces religious employers to provide coverage for drugs that facilitate and encourage homosexual behavior, prostitution, sexual promiscuity and intravenous drug use. It also compels religious employers and religious individuals who purchase health insurance to subsidize these behaviors as a condition of purchasing health insurance. This substantially burdens the exercise of religion.”

The Food and Drug Administration (FDA) has approved three forms of PrEP to prevent HIV: Truvada and Descovy are daily pills, and Apretude is a shot given every two months. Generic (and much cheaper) versions of Truvada are available. A twice-yearly injectable, lenacapavir as PrEP, may be added to prevention options in the near future. To learn more about PrEP, see the POZ Basics on HIV Prevention: Pre-Exposure Prophylaxis (PrEP).

“It’s difficult for us, right now, to fully prepare for what we could face because we don’t know exactly what will happen this year,” says PrEP4All Executive Director @activistjohnson.bsky.social discussing looming legal policy threats to PrEP access. www.unclosetedmedia.com/p/what-is-th...

[image or embed]

— PrEP4All, Inc. (@prep4allnow.bsky.social) January 13, 2025 at 1:05 PM

In an early ruling in the court case, a Texas judge said that because the USPSTF’s members are not appointed by the president nor confirmed by the Senate, the panel is unconstitutional. A federal appeals court in June 2024 agreed about the USPSTF system but ruled that only the challengers that brought the case no longer have to cover the prevention services, while other insurers must continue doing so. The case was sent back to a lower court, but last Friday, January 10, the Supreme Court said it would review the constitutionality of the preventive coverage mandate.

The Supreme Court usually releases its decisions in May and June. Whichever way it decides, the ruling in this case does not affect the legality of Obamacare itself, though millions of Americans could lose access to certain prevention services and medications.

Last October, 35 health care advocacy groups filed an amicus curiae, or friend-of-the- court, brief in the case of Braidwood v. Becerra, arguing for continued no-cost coverage. The brief stated in part:

> “The ACA preventive services provision…increases patients’ ability to receive care that can prevent disease outright, identify illnesses early, and reduce the physical and financial burdens of treating severe illnesses. Detecting severe diseases early allows for less invasive, more effective, and lower-cost treatment options, and substantially improves patient outcomes. The ACA’s preventive-care requirements have functioned for more than ten years,

> enabling millions of Americans to obtain preventive care without cost-sharing and improving utilization of these vital services nationwide. Reducing insurance coverage for preventive services will lead to worsening patient outcomes, leading to preventable deaths, and creating higher long-term medical costs.
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> "The court of appeals decision threatens to drastically reduce insurance coverage for USPSTF-recommended services, deter utilization of those services, worsen patient outcomes, and potentially increase costs. If fully implemented, it will substantially harm the patients that amici treat, serve, and support."

Because health care providers and advocates seek clarity on this topic, many urged the Supreme Court justices not only to take up the case but also to rule in favor of protecting the services. Without national guidance, it becomes increasingly difficult to figure out what is and isn't required to be covered, which also leaves more decisions up to individual states, sowing even more confusion.

"We need certainty, and the Supreme Court stepping and defining what does and doesn't stand would help everyone in the health care industry plan for future enrollment," Andrew Twinamatsiko, director of the Health Policy and the Law Initiative at Georgetown University's O'Neill Institute, told Politico. "But granting cert [a writ of certiorari, a request that the Supreme Court order a lower court to send up the record of the case for review] also means there's a likelihood that all the services might be gone, so it's a mixed bag."

For background on this case, see "UPDATE: Court Pauses Judge's Ruling to End Health Coverage of Some Preventive Services" and "Judge's Decision Would Make Some No-Cost Cancer Screenings a Thing of the Past."

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