

ALERT: HEALTH CARE REFORM BILL

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EXPANDED WOMEN'S PREVENTIVE SERVICES: REQUIRED HEALTH PLAN COVERAGE

The health care reform law included a requirement that employer-sponsored health plans cover certain preventive health care services and do so without any cost-sharing requirements for such services. The requirement became effective, for non-grandfathered plans only, at the start of the first plan year beginning on or after September 23, 2010 (January 1, 2011 for calendar-year plans). Regulations implementing this requirement and identifying the relevant preventive services were issued in July 2010.

On August 1, 2011, the Health Resources and Services Administration released an expanded list of preventive coverages that must be offered to women covered under group health plans and individual health plans. The expanded list includes many items, but specifically makes provision for contraceptive methods and counseling.

Additionally, an interim final rule was released along with the new women's prevention guidelines. The interim rule amends the July 2010 interim final rule, making provision for a religious accommodation where an employer meets the standard of a "religious employer" that objects to providing insurance coverage for contraceptive services. This religious exemption does not apply to insurance policies in the individual health insurance market. The amendment to the interim final rule gives only a very broad definition of religious employer – one that: 1) has the inculcation of religious values as its purpose; 2) primarily employs persons who share its religious tenets; 3) primarily serves persons who share its religious tenets; and 4) is a non-profit organization under Internal Revenue Code Sections 6033(a)(1) and 6033(a)(3)(A)(i) or (iii).

Which plans are impacted by the expanded list of women's preventive coverage?

Non-grandfathered plans; such plans (self-insured and fully-insured) must provide preventive coverage with no co-pays, co-insurance or deductible.

When is the expanded list effective for women's preventive care? The new list applies to plan years beginning on or after August 1, 2012 (January 1, 2013 for calendar-year plans).

EXPANDED PREVENTIVE CARE FOR WOMEN

The Health Resources and Services Administration (HRSA), an agency of the Department of Health and Human Services (HHS), was given authority to develop **comprehensive guidelines** for the expanded preventive care and screenings for women, and the HRSA recommendations have been adopted by HHS. The new guidelines take into consideration the unique needs of women and provide a comprehensive approach to care for women.

The HRSA guidelines are the latest in a line of preventive care recommendations that have been recognized by the government. The **U.S. Preventive Services Task Force** issued the

first list of preventive services (which has now been expanded by the HRSA recommendations), and the **Advisory Committee on Immunization Practices** issued immunization schedules from childhood to adulthood.

Expanded preventive health care for women will consist of the following elements (as outlined on the HealthCare.gov website):

- **WELL-WOMAN VISITS** This care will be furnished annually to adult women with additional health care treatment/visits if ordered by a health care provider.
- **GESTATIONAL DIABETES SCREENING** This screening is for women 24 to 28 weeks pregnant, and those at high risk of developing gestational diabetes. It will help improve the health of mothers and babies because women who have gestational diabetes have an increased risk of developing type 2 diabetes in the future. In addition, the children of women with gestational diabetes are at significantly increased risk of being overweight and insulin-resistant throughout childhood.
- **HPV DNA TESTING** Women who are 30 or older will have access to high-risk human papillomavirus (HPV) DNA testing every three years, regardless of pap smear results.
- **STI COUNSELING, AND HIV SCREENING AND COUNSELING** Sexually-active women will have access to annual counseling on HIV and sexually transmitted infections (STIs). These sessions have been shown to reduce risky behavior in patients, yet only 28% of women aged 18 to 44 years reported that they had discussed STIs with a doctor or nurse. In addition, women are at increased risk of contracting HIV/AIDS.
- **CONTRACEPTION AND CONTRACEPTIVE COUNSELING** Women will have access to all Food and Drug Administration-approved contraceptive methods, sterilization procedures, and patient education and counseling. These recommendations do not include abortifacient drugs.
- **BREASTFEEDING SUPPORT, SUPPLIES AND COUNSELING** Pregnant and postpartum women will have access to comprehensive lactation support and counseling from trained providers, as well as breastfeeding equipment. Breastfeeding is one of the most effective preventive measures mothers can take to protect their children's and their own health.
- **DOMESTIC VIOLENCE SCREENING** Screening and counseling for interpersonal and domestic violence should be provided for all women. An estimated 25% of women in the U.S. report being targets of intimate partner violence during their lifetimes.

While non-grandfathered plans must provide the above preventive services for women, plan sponsors will be able to control costs for prescriptions by continuing to apply a name-brand co-pay if generic prescriptions that are as effective and safe as the name-brand prescription are available.

BACKGROUND

The Patient Protection and Affordable Care Act was enacted on March 23, 2010, and the Health Care and Education Reconciliation Act was enacted on March 30, 2010. Collectively, these laws are known as the “Affordable Care Act” (also known as “Health Care Reform” or “ACA” or “PPACA”).

Various requirements under Health Care Reform began applying to plans in 2010, but most plans faced the requirements of Health Care Reform at the beginning of their plan years in 2011.

The Affordable Care Act added a new section to the Public Health Service Act (PHSA) and incorporated the same provisions within ERISA and the Internal Revenue Code. These changes require group health plans and insurers (offering group or individual coverage) to provide the following benefits without cost-sharing:

- Evidence-based items/services that have an A or B rating in the recommendations of the United States Preventive Services Task Force
- Immunizations for routine use in children, adolescents and adults; such immunizations will be recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention
- Preventive care and screenings, as outlined by the Health Resources and Services Administration (HRSA), for infants, children and adolescents
- Preventive care and screenings, as outlined and supported by HRSA, for women

It is the preventive care services for women which are the subject of this *Alert*. For more information on Preventive Care, please see Willis Human Capital Practice *Alert*, Vol. 3, No. 15, “**More Health Care Reform Regulations: Interim Final Rules on Preventive Care.**”

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