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Federal ruling knocking down required preventive services could have far-reaching impacts

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<https://www.chartis.com/insights/federal-ruling-knocking-down-required-preventive-services-could-have-far-reaching-impacts>

The Buzz This Week

A federal judge in Texas ruled late last week that the mandate for private health insurers to fully cover certain preventive services at no cost to patients—a requirement under the Affordable Care Act of 2010 (ACA)—is unconstitutional. The ruling applies to all private health insurers nationwide, potentially impacting roughly 150 million people in the U.S. It does not directly impact government insurance programs like Medicare and Medicaid. While the ruling technically takes effect immediately, it is not expected to have an impact on consumers in the near term, as most policies typically span an entire calendar year and changes are rarely made mid-contract.

Not all preventive services are included in this decision. Judge Reed O'Connor ruled that any recommendations that the United States Preventive Services Task Force (USPSTF) made from March 2010 to present—including coverage for screenings for some cancers, diabetes, and mental health—would no longer be mandated. In a [related case](#) in September, the same judge ruled that HIV screenings and a prevention treatment known as PReP cannot be mandated, citing violations to religious freedom.

The most recent ruling would not overturn recommendations for coverage made by the USPSTF prior to March 2010, such as mammograms, colorectal cancer screening, and cervical cancer screening. In addition, the ruling does not overturn coverage requirements recommended by other advisory entities, such as vaccines, recommended by the Advisory Committee on Immunization Practices (ACIP); contraception and other related women's health services, recommended by the Health Resources and Services Administration (HRSA); or child and adolescent services, recommended by Bright Futures.

Why It Matters

The U.S. Department of Justice has appealed the ruling, and the Biden Administration is expected to request a stay, which would protect the preventive health coverage mandates while higher courts weigh in on the decision. However, the ruling potentially has far-reaching implications to the health status of the nation.

A key to accessing preventive services is free coverage, with no out-of-pocket costs such as co-pays. Without a mandate to cover these services, many people may forego them due to the cost. A Morning Consult survey found that 40% of respondents said they were not willing to pay for 11 of the 12 preventive services covered under the Affordable Care Act. This could cause disease incidence and prevalence rates to rise, and total healthcare expenditures to balloon, as the care required to treat people with more advanced diseases will be more extensive and complex.

Opposition to the ruling came swiftly from across the healthcare industry. The American Medical Association released a statement underscoring that “physicians know the inevitable result when courts interfere with insurance coverage of effective, proven interventions. Patients will be subjected to needless illness and preventable deaths. We strongly urge employers and insurers to maintain this first-dollar coverage while legislative and judicial next steps are considered.” The American Academy of Family Physicians stated that it is “alarmed that the court’s decision will create insurmountable barriers to screenings, counseling, and preventive medications that improve individual patient and population health.” Some insurers came forward, issuing statements to reassure enrollees that coverage would not be disrupted—at least for the time being. Blue Cross Blue Shield of Massachusetts declared that no-cost coverage of previously covered preventive services would remain the same while the industry awaits anticipated further legal action by the federal government. America’s Health Insurance Plans (AHIP), an insurance trade organization, similarly stated that no coverage changes will take place while the appeals process continues.

If the ruling holds, maintaining preventive service access and utilization will depend on a variety of actors in the healthcare system. States regulate private insurance, and some are making moves to fill in gaps introduced by the recent rulings. However, per the Employee Retirement Income Security Act of 1974 (ERISA), states cannot regulate self-insured employer plans, which cover an estimated 64% of those with employer-based coverage, per the Kaiser Family Foundation. Private insurers would not have to cover all preventive services, but many may see the value in choosing to do so—to remain competitive in the market and to save on longer-term costs if diseases are not prevented or diagnosed and treated in the early stages. Funding may be sought from a variety of private foundations and/or from local or state governments to support low- or no-cost preventive services to prop up access for certain communities.

Despite these and other efforts, the recent ruling is a major blow to the ACA and could foreshadow more changes to come. As The Kaiser Family Foundation stated, “this is the first time a court has ruled that the ACA preventive services coverage requirement other than the contraceptive coverage requirement violates employers’ religious rights.... This has the potential to open the door to employers objecting to other services, such as vaccines.”

RELATED: National Public Health Week Observed This Week

April 3 through April 9 is [National Public Health Week](#), organized by the American Public Health Association (APHA), the largest organization for public health professionals in the United States. The goal is to recognize recent contributions to public health and underscore key issues that are fundamental to improving our nation's health, safety, and community connectivity.

This year's overarching theme is "Centering and Celebrating Cultures in Health," emphasizing the "unique and joyful ways different cultures focus on health," and encouraging community leaders to serve as health leaders. In addition, each day this week has a more focused theme: Community (Monday), Violence Prevention (Tuesday), Reproductive and Sexual Health (Wednesday), Mental Health (Thursday), Rural Health (Friday), Accessibility (Saturday), and Food and Nutrition (Sunday).

The APHA has posted information on their website about [each of the daily themes](#), each organized into 4 sections—For Science, For Action, For Health, and In Celebration.

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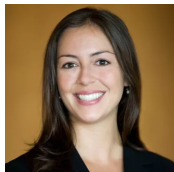
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