



# Health Care Reform

## LEGISLATIVE BRIEF

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## Preventive Care Guidelines for Women

The Affordable Care Act (ACA) requires non-grandfathered health plans to cover certain preventive health services without imposing cost-sharing requirements for the services. ACA's preventive care mandate generally became effective for plan years beginning on or after Sept. 23, 2010.

In August 2011, the Department of Health and Human Services (HHS) issued additional preventive care guidelines for women. These additional guidelines, which are generally effective for **plan years beginning on or after Aug. 1, 2012**, require non-grandfathered health plans to cover women's preventive health services (such as well-woman visits, breastfeeding support, domestic violence screening and contraceptives) without charging a copayment, a deductible or coinsurance.

Special rules apply to religious employers, such as churches, and other religious-based institutions, such as schools, hospitals, charities and universities. Please read below for more information on how the rule applies to these organizations.

### BACKGROUND

For plan years beginning on or after Sept. 23, 2010, non-grandfathered group health plans must cover certain preventive health services without any cost-sharing. The preventive care mandate does not apply to grandfathered plans.

In July 2010, HHS, along with the Departments of Labor and the Treasury (Departments), issued [interim final rules](#) relating to coverage of preventive health services. The interim final rules identified the following recommended preventive health services as those that must be covered without cost-sharing requirements:

- Evidence-based items or services that have in effect a rating of A or B in the current recommendations of the United States Preventive Services Task Force, including certain preventive care for women, such as mammograms, cervical cancer screenings and prenatal care;
- Immunizations for routine use in children, adolescents and adults that are currently recommended by the Centers for Disease Control and Prevention (CDC) and included on the CDC's immunization schedules;
- Evidence-informed preventive care and screenings for infants, children and adolescents, as provided for in the Health Resources and Services Administration (HRSA) guidelines; and
- Evidence-informed preventive care and screening for women, as provided in guidelines supported by HRSA, which were required to be developed by August 2011.

More information on ACA's preventive care mandate, including specific information on the covered preventive health services, is available at: [www.healthcare.gov/law/provisions/preventive/index.html](http://www.healthcare.gov/law/provisions/preventive/index.html).



# Preventive Care Guidelines for Women

## COVERAGE GUIDELINES

On Aug. 1, 2011, HHS issued the HRSA-supported preventive care guidelines for women to fill the gaps in the current preventive health services guidelines for women. According to HHS, these new guidelines will help ensure that women receive a comprehensive set of preventive health services without having to pay a copayment, a deductible or coinsurance.

Non-grandfathered health plans will need to include these services without cost-sharing for **plan years beginning on or after Aug. 1, 2012 (Jan. 1, 2013, for calendar year plans)**, subject to the exception described below for religious employers.

### **Covered Health Services**

The new preventive care guidelines for women cover the following health services:

- *Well-woman visits* – Includes an annual well-woman preventive care visit for adult women to obtain the recommended preventive services, and additional visits if women and their providers determine they are necessary.
- *Gestational diabetes screening* – Screening for women 24-28 weeks pregnant, and those at high risk of developing gestational diabetes.
- *Human papillomavirus (HPV) DNA testing for women age 30 and older* – Women who are age 30 or older will have access to high-risk HPV DNA testing every three years, regardless of Pap smear results.
- *Sexually transmitted infection (STI) counseling* – Sexually active women will have access to annual counseling on STIs.
- *Human immunodeficiency virus (HIV) screening and counseling* – Sexually active women will have access to annual screening and counseling on HIV infections.
- *FDA-approved contraception methods and contraceptive counseling* – Women will have access to all FDA-approved contraceptive methods, sterilization procedures and patient education and counseling.
- *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.
- *Domestic violence screening and counseling* – Screening and counseling for interpersonal and domestic violence.

According to HHS, health plans may use reasonable medical management techniques for women's preventive care to help define the nature of the covered service, consistent with guidance provided in the interim final rules. For example, health plans may control costs and promote efficient delivery of care by continuing to charge cost-sharing for brand-name drugs if a safe and effective generic version is available. In addition, the interim final rules confirmed that plans may continue to impose cost-sharing requirements on preventive services that employees receive from out-of-network providers.

### **Contraceptive Services and Religious Employers**

#### *Exemption*

On Aug. 3, 2011, HHS issued an [amendment](#) to the interim final rules to allow certain non-profit religious employers offering health coverage, such as churches, to decide whether or not to cover contraceptive services, consistent with their beliefs. A non-profit religious employer, for this purpose, is an employer that has the inculcation of religious values as its purpose, primarily employs persons who share its religious beliefs and primarily serves persons who share its religious beliefs. HHS [finalized](#) this amendment on Feb. 15, 2012.

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## *Temporary Safe Harbor*

On Jan. 20, 2012, HHS [announced](#) that it would amend the interim final rules to allow non-profit employers that, based on religious beliefs do not currently provide contraceptive coverage to their employees, an additional year to comply with the new requirements. The amendment would allow these employers to delay covering contraceptive services until the **first plan year beginning on or after Aug. 1, 2013 (Jan. 1, 2014 for calendar year plans)**. This extension covers church-affiliated organizations that do not qualify for the exception for non-profit religious employers, such schools, hospitals, charities and universities.

On Aug. 15, 2012, HHS released a [bulletin](#) describing the temporary enforcement safe harbor for nonprofit organizations that do not provide some or all of the required contraceptive coverage based on their religious beliefs.

## *Accommodation Approach*

In early 2012, the Obama Administration announced that a new regulation will be drafted during the safe harbor period. According to the White House, the regulation would not require religious organizations, such as schools, charities, hospitals and universities, to provide contraceptive coverage, refer their employees to organizations that provide contraception or subsidize the cost of contraception. However, contraceptive coverage would be provided to female employees by an independent third party, such as an insurance company or third-party administrator (TPA), directly and free of charge.

On March 21, 2012, the Departments issued an [advance notice of proposed rulemaking](#) to outline draft proposals and seek input on the contraceptive coverage requirement for religious employers. Comments were due by June 19, 2012.

## **CONSIDERATIONS FOR EMPLOYERS**

Employers with non-grandfathered health plans should confirm with their insurance coverage issuers that the preventive health services for women will be covered, without cost-sharing, effective for plan years beginning on or after Aug. 1, 2012. Employers may see a rise in insurance premiums related to this expanded coverage. As mentioned above, religious employers may be able to delay or avoid covering contraceptive services.

In addition, due to the amount of media attention the new guidelines have received, employers should be prepared to answer questions from their employees regarding preventive care coverage for women, including: (1) the scope of the guidelines; (2) when they will be effective; and (3) whether their health plan will cover the preventive health services for women at no charge, which depends on whether the plan has grandfathered or non-grandfathered status.