



Health Care Reform Update

What You Need to Know Now



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Banyan Consulting LLC is pleased to present our new Health Care Reform series.

Over the next months and years, employers will be faced with numerous changes, many of which require regulatory clarification. We'll use this venue to keep you up to date, and on target with decisions that affect your plans.

What You Need to Know Now About: Preventive Services

One component of the Health Care Reform Act signed into law on 3/23/2010 requires minimum coverage, without employee cost-sharing, for services rated A or B by the US Preventive Services Task Force. Beginning with the first day of the first plan year beginning on or after 9/23/2010, plans can no longer require a copay or apply a deductible or coinsurance to these services. On 7/14/2010, the Department of Health & Human Services (HHS) released the list of A and B services determined by the US Preventive Services Task Force.

1. Does this health care reform provision apply to “grandfathered” plans?

No, grandfathered plans do not need to comply with this provision. If, in the future, your health plan loses its grandfathered status, this reform will apply to your plan.

2. What are the A and B rated preventive services?

The A and B rated preventive services are segmented into 3 categories which are:

- Adult Covered Preventive Services
- Women (including Pregnant Women) Covered Preventive Services
- Children Covered Preventive Services

There is still some debate on additional services for women that, most likely, will not be resolved until August, 2011. There is lobbying from organizations

such as Planned Parenthood, for example, who want birth control to be included in the preventive services category. More information is sure to follow.

3. What are the Adult Covered Preventive Services?

The services currently identified include:

- **Abdominal Aortic Aneurysm** – One time screening for men of specific ages who have ever smoked
- **Alcohol Misuse** – Screening and counseling
- **Aspirin** – Use for men and women of certain ages
- **Blood Pressure** – Screening for all adults
- **Cholesterol** – Screening for adults of certain ages or at higher risk
- **Colorectal Cancer** - Screening for adults over 50
- **Depression** – Screening for adults
- **Type 2 Diabetes** – Screening for adults with high blood pressure
- **Diet** – Counseling for adults at higher risk for chronic disease
- **HIV** – Screening for all adults at higher risk
- **Immunization** – Doses, recommended ages, and recommended populations vary:
 - Hepatitis A
 - Hepatitis B
 - Herpes Zoster
 - Human Papillomavirus
 - Influenza
 - Measles, Mumps, Rubella
 - Meningococcal
 - Pneumococcal
 - Tetanus, Diphtheria, Pertussis
 - Varicella
- **Obesity** – Screening and counseling for all adults
- **Sexually Transmitted Infection (STI)** – Prevention counseling for adults at higher risk
- **Tobacco Use** – Screening for all adults and cessation interventions for tobacco users
- **Syphilis** – Screening for all adults at higher risk

4. What are the Women Covered Preventive Services?

The services currently identified include:

- **Anemia** – Screening on a routine basis for pregnant women
- **Bacteriuria** – Urinary tract or other infection screening for pregnant woman
- **BRCA** – Counseling about genetic testing for women at higher risk
- **Breast Cancer Mammography** – Screenings every 1 to 2 years for women over 40
- **Breast Cancer Chemoprevention** – Counseling for woman at higher risk
- **Breast Feeding** – Interventions to support and promote breast feeding
- **Cervical Cancer** – Screening for sexually active women
- **Chlamydia Infection** – Screening for younger women and other women at higher risk
- **Folic Acid** – Supplements for women who may become pregnant
- **Gonorrhea** – Screening for all women at higher risk
- **Hepatitis B** – Screening for pregnant women at their first prenatal visit
- **Osteoporosis** – Screening for women over age 60 depending upon risk factors
- **Rh Incompatibility** – Screening for all pregnant women and follow-up testing for women at higher risk
- **Tobacco Use** – Screening and interventions for all women, and expanded counseling for pregnant tobacco users
- **Syphilis** – Screening for all pregnant women or other women at increased risk

As mentioned in Question #2, this is an incomplete list as additional preventive services may be added by August, 2011.

5. Special Provision – Breast Feeding at Work

A little-known provision within national health-care reform legislation requires employers to accommodate breast-feeding mothers in the workplace. Effective immediately, employers must allow lactating women to take breaks to express breast milk for the first year after the birth of a child. The federal provision does not require those breaks to be paid. Employers also must provide a private break area — not in the restroom — for female employees to express milk. Small employers with fewer than 50 employees can be excluded if they prove the requirement would cause a hardship.

If you do not have an official Breast Feeding at Work policy, you should draft one that meets the requirements of this provision. If you need assistance in

drafting an official policy, please contact a member of your Banyan Consultant team for sample language.

6. What are the Children Covered Preventive Services?

The services currently identified include:

- **Alcohol and Drug Use** – Assessments for adolescents
- **Autism** – Screening for Children at 18 and 24 months
- **Behavioral** - Assessments for children of all ages
- **Cervical Dysplasia** – Screening for sexually active females
- **Congenital Hypothyroidism** – Screening for newborns
- **Developmental** – Screening for children under age 3, and surveillance throughout childhood
- **Dyslipidemia** – Screening for children at higher risk of lipid disorders
- **Fluoride Chemoprevention** – Supplements for children without fluoride in their water source
- **Gonorrhea** – Preventive medication for the eyes of all newborns
- **Hearing** – Screening for all newborns
- **Height, Weight and Body Mass Index** – Measurements for children
- **Hematocrit or Hemoglobin** – Screening for children
- **Hemoglobinopathies or Sickle Cell** – Screening for newborns
- **HIV** – Screening for adolescents at higher risk
- **Immunization** – Doses, recommended ages and recommended populations vary:
 - Diphtheria, Tetanus, Pertussis
 - Haemophilus influenza type b
 - Hepatitis A
 - Hepatitis B
 - Human Papillomavirus
 - Inactivated Poliovirus
 - Influenza
 - Measles, Mumps, Rubella
 - Meningococcal
 - Pneumococcal
 - Rotavirus
 - Varicella
- **Iron** – Supplements for children ages 6 to 12 months at risk for anemia
- **Lead** – Screening for children at risk of exposure
- **Medical History** – For all children throughout development
- **Obesity** – Screening and counseling
- **Oral Health** – Risk assessment for your children

- **Phenylketonuria (PKU)** – Screening for this genetic disorder in newborns
- **Sexually Transmitted Infection (STI)** – Prevention counseling for adolescents at higher risk
- **Tuberculin** – Testing for children at higher risk of tuberculosis
- **Vision** – Screening for all children

7. Have the Department of Labor (DOL) regulations and/or any sample language been released?

The DOL released Interim Final Regulations on 7/19/2010. Generally speaking, the regulations were directed towards insurance carriers, third party administrators, and providers of care regarding how to administer or bill the new Preventive Services provision.

Some of the notable items are:

- The no cost-share requirement on Preventive Services applies only to in-network providers of care. A plan can still require cost-sharing if care is provided out-of-network.
- Plan Sponsors/Administrators can establish treatment schedules and limits provided reasonable medical management techniques are used. For example, an annual cholesterol screening may be considered reasonable medical management so the plan could limit routine, preventive cholesterol screenings to one every 12 months.
- Several billing examples were also given in which a Preventive Service such as a cholesterol screening was billed along with an office visit. In certain situations, the cholesterol screening may be payable at 100% with no cost-share while the office visit can still have a cost-share such as a copay or deductible.

The DOL Interim Final Regulations do not provide any sample language to communicate the changes in the Preventive Services to the plan participants. The DOL also did not state that any sample language would be provided in the “very near future”.

8. How should I communicate the new Preventive Services provision to my plan participants?

The DOL has not issued any clear guidance or sample language to be used in communicating the changes in Preventive Services to plan participants. If your

plan is fully-insured, it will be the responsibility of your insurance carrier to develop and distribute communication materials to the plan participants. If your plan is self-funded, you should work closely with the claim administrator to develop and distribute the needed materials.

Regardless of whether your plan is fully-insured or self-funded, you will also need to follow standard ERISA disclosure procedures, such as:

- Summary of Material Modifications (SMM) – As always, anytime a change is made to a plan design, an SMM should be sent to the plan participants.
- Summary Plan Description (SPD) – The plan’s SPD should be updated with the new Preventive Services benefits.

In addition, you should also “prominently” display the new list of Preventive Services in any open or new enrollment materials. Although for most plan participants, their physician will be the one aware of the new Preventive Services that will be payable at 100%, there are certain services on the new list (such as aspirin, fluoride supplements, etc.) that the participant may not be aware of unless informed by the plan sponsor.

9. I have a qualified High Deductible Health Plan (HDHP) with a Health Savings Account (HSA). How does the new Preventive Services provision impact me?

The DOL Interim Final Regulations do not specifically address this situation. Until further guidance is provided by the DOL, any answer to this question is purely based on assumptions.

10. How much is the implementation of this health care provision going to cost?

HHS has estimated that the cost for implementing the new preventive services provision will result in a +1.5% increase in costs in either premium or claims. However, at this time insurance carriers are still trying to grasp the impact of the list of services and how it will affect claims and administration. For example, some preventive services such as Fluoride Chemoprevention and paying 100% of the cost for fluoride supplements for children who do not have fluoride in their drinking water may prove to be an administrative challenge. As a result, the ultimate cost adjustment that your health plan insurance carrier or administrator may add to your premium rates or administrative costs is still yet to be determined and may be significantly different than +1.5%.

11. What do I need to do now?

- Determine what the financial impact to your plan will be for an approximate 1.5% increase in claims or premium. If your plan is fully-insured, you can expect to see this amount added to your monthly rates. If your plan is self-funded, you will need to incorporate this increase into any cost projections and/or budget rates.
- If you are a non-grandfathered plan, you should discuss this new provision with your insurance carrier or claims administrator to begin preparations to implement this reform on the first day of the first plan year beginning on or after 9/23/2010.
- Lastly, if you are subject to this new provision, you need to begin preparing your communication strategy for the upcoming open enrollment, and ongoing, to educate your plan participants on what is now available to them at 100%.

We will continue to update you as additional guidance is released. In the interim, if you have any questions on this or any new health care reform regulation, please contact a member of your Banyan Consulting team.