

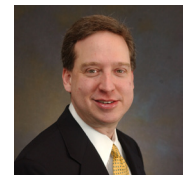


## New Guidelines and Rules for Women's Preventive Services under the Affordable Care Act

August 4, 2011

The Patient Protection and Affordable Care Act ("Affordable Care Act") mandates coverage in group health plans for certain types of preventive health services without cost-sharing (such as co-payments, co-insurance, or deductibles). One type of mandated preventive health service is preventive care and screenings for women as set forth in guidelines supported by the Health Resources and Services Administration ("HRSA").

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On July 19, 2010, the Internal Revenue Service, Department of Labor, and Department of Health and Human Services (the "Departments") issued an interim final rule incorporating the requirement under the Affordable Care Act. The rules were accompanied by guidelines on certain types of preventive services and immunizations but no specific types of preventive care and screenings for women. However, the rules anticipated that HRSA would eventually adopt guidelines.

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HRSA recently issued required health plan coverage guidelines for women's preventive services. The guidelines, developed by the Institute of Medicine, are effective August 1, 2011. They apply to group health plans with respect to the first plan year beginning on or after August 1, 2012. So, for calendar-year plans, the new guidelines would not apply until January 1, 2013. However, it is important to note that the requirements do not apply to a "grandfathered" group health plan—at least as long as it maintains its grandfathered status.

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The guidelines provide for a broad range of medical services and supplies. Specifically, they provide for the following:

- ▶ Well-woman visits
- ▶ Screening for gestational diabetes
- ▶ Human papilloma virus testing
- ▶ Counseling for sexually transmitted infections
- ▶ Counseling and screening for human immune-deficiency virus
- ▶ Contraceptive methods and counseling
- ▶ Breastfeeding support, supplies, and counseling
- ▶ Screening and counseling for interpersonal and domestic violence

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While non-grandfathered group health plans will have to provide for the foregoing medical services and supplies, they may still institute reasonable medical management such as, for example, cost-sharing for branded drugs if a comparable generic version is available and is just as effective and safe for the patient to use.

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To address the concerns of religious employers, the Departments have issued an amended interim final rule that allows HRSA to establish exemptions from the guidelines for religious employers with respect to the requirement to cover contraceptive services. Religious employers are organizations that meet the following criteria: (i) the inculcation of religious values is the purpose of the organization; (ii) the organization primarily

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employs persons who share the religious tenets of the organization; and (iii) the organization serves primarily persons who share the religious tenets of the organization. The HRSA guidelines note this exemption.

If you have any questions about the new rules and guidelines, please contact [David Joffe](#) or one of the other attorneys in the [Employee Benefits & Executive Compensation Group](#) at Bradley Arant Boulton Cummings LLP.

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