

# update

Compliance News for Multiemployer Plans

June 13, 2017

## Updated List of Required Preventive Services Under the Affordable Care Act

The Affordable Care Act requires non-grandfathered health plans to provide certain preventive services in network without charge to the participant or beneficiary.<sup>1</sup> The federal agencies responsible for determining which preventive services must be provided have issued new guidelines that change some of the requirements.

The obligation of non-grandfathered health plans to provide preventive services will likely continue regardless of the outcome of legislative efforts to modify the Affordable Care Act. Current versions of reform pending in the House and Senate would not change this requirement.<sup>2</sup> Although the requirement for non-grandfathered plans to provide preventive services is not likely to change, there are changes to the specific preventive services required, as summarized in this *Update*.

### Statin Use

The U. S. Preventive Services Task Force (USPSTF) has released a recommendation that will require plan sponsors to provide coverage of statins, in network and without charge, for certain individuals.<sup>3</sup> The USPSTF recommends that adults ages 40 to 75 without a history of cardiovascular disease (CVD) use a low- to moderate-dose statin<sup>4</sup> for the prevention of CVD events and mortality when they have one or more cardiovascular disease risk factors (*i.e.*, dyslipidemia,<sup>5</sup> diabetes, hypertension or smoking) and a calculated 10-year risk of a CVD event of 10 percent or greater.

<sup>1</sup> The preventive services that must be provided without cost sharing fall into four different categories:

1. Services with an “A” or “B” recommendation from the U.S. Preventive Services Task Force (USPSTF);
2. Vaccines recommended by the Centers for Disease Control and Prevention;
3. The Bright Futures guidelines developed by the American Academy of Pediatrics with support from the Health Resources and Services Administration (HRSA); and
4. Certain women’s services listed in HRSA guidelines (supplementing some of the USPSTF recommendations).

<sup>2</sup> For a summary of The American Health Care Act (H.R. 1628) passed by the House on May 4, 2017, see Segal Consulting’s May 11, 2017 *Update*, “[House Passes Legislation to Repeal and Replace Aspects of the Affordable Care Act](#).”

<sup>3</sup> A complete [list of “A” and “B” recommendations, which includes the recommendation on statins](https://www.uspreventiveservicestaskforce.org) is available at <https://www.uspreventiveservicestaskforce.org>.

<sup>4</sup> Low- to moderate-dose statins are a different class of drug from the very expensive, newer class of injectable cholesterol-lowering medications known as PCSK9.

<sup>5</sup> Dyslipidemia is a medical condition that refers to abnormal levels of blood lipids. The most common form is high lipid levels.



### Health Compliance News Highlights:

- Guidelines keep evolving for which preventive services non-grandfathered plans must provide.
- The most significant change is the addition of statins to the list of required preventive drugs.
- Sponsors of non-grandfathered plans should review plan documents and operations to ensure that the plan complies with the latest guidelines.

“Low-to-moderate-dose statins [will be required] for the prevention of cardiovascular disease ... for adults ages 40–75 years.”

Screening for cardiac risk factors may require assessment of blood pressure, smoking status and measurement of lipid levels. This requirement is effective for plan years beginning on or after December 1, 2017 (*i.e.*, January 1, 2018 for calendar-year plans).<sup>6</sup>

## Aspirin Use

The USPSTF guidelines for required aspirin coverage at no cost sharing in network have changed.<sup>7</sup> The USPSTF now recommends low-dose aspirin for the prevention of cardiovascular disease and colorectal cancer in adults ages 50 to 59 who meet the following criteria:

- They have a 10-year cardiovascular risk of 10 percent or greater.
- They are not at increased risk for bleeding.
- They have a life expectancy of at least 10 years.
- They are willing to take low-dose aspirin daily for at least 10 years.

The change to the aspirin requirement is effective for plan years beginning on or after May 1, 2017. A separate provision in the Affordable Care Act requires that the individual present a prescription for the aspirin in order for the aspirin to be covered by the plan.

## Preventive Services for Women

Non-grandfathered plans are required to cover certain preventive services for women in network without charge.<sup>8</sup> The Health Resources and Services Administration (HRSA) recently updated these guidelines.<sup>9</sup> Notable changes in the new HRSA guidelines include the following:

- Changes to the schedule for cervical cancer screening that make the recommendations the same as USPSTF guidelines on cervical cancer screening (*i.e.*, for ages 21 to 29, Pap smear every three years and for ages 30 to 65, HPV testing with Pap smear every five years *or* a regular Pap smear (without HPV testing) every three years.);<sup>10</sup> and
- Extension of certain requirements to adolescents (*i.e.*, well woman visits, screening and counseling for interpersonal and domestic violence).

The updates to the HRSA requirements are effective for plan years beginning on or after January 1, 2018.

<sup>6</sup> Plan sponsors must begin providing a new required preventive service starting with the plan year that begins one year after the guideline or recommendation is issued.

<sup>7</sup> Earlier guidelines recommended aspirin use for men ages 45 to 79 when the potential benefit due to a reduction in heart attacks outweighed the potential harm due to an increase in gastrointestinal bleeding. For women ages 55 to 79, aspirin use was recommended when the potential benefit of a reduction in strokes outweighed the potential harm due to an increase in gastrointestinal bleeding.

<sup>8</sup> Since 2011, those guideline have included well-woman visits; screening for gestational diabetes; cervical cancer screening; counseling for sexually transmitted infections; counseling and screening for HIV; contraceptive methods and counseling, including follow-up care (*e.g.*, changes to method, removal of device); breast-feeding support, supplies and counseling (including equipment rental or purchase); and screening and counseling for interpersonal and domestic violence.

<sup>9</sup> The updated [guidelines](#) are on the HRSA website. The HRSA guidelines released in December 2016 incorporate guidance from the Departments of Labor, Treasury, and Health and Human Services, the departments implementing the Affordable Care Act with respect to contraceptive coverage. Plan sponsors must provide coverage for the full range of contraceptive methods, of which there are currently 18. For more information about the Affordable Care Act's contraceptive coverage requirements, see Segal's May 28, 2015 *Update*, "[Additional Coverage Required for Preventive Services Under the Affordable Care Act](#)."

<sup>10</sup> The 2011 HRSA guidelines addressed HPV testing for women with normal Pap smears. Those guidelines recommended that HPV testing begin at age 30 and be performed no more frequently than every three years.

“The change to the aspirin requirement is effective for plan years beginning on or after May 1, 2017.”

## Implications for Plan Sponsors

Because the recommendations affect both drug and medical benefits, plan sponsors of non-grandfathered plans should work with their medical and pharmacy benefit administrators to ensure that the new recommendations are implemented.

For pharmacy benefits, plan sponsors should ask their pharmacy benefit manager (PBM) how the PBM intends to implement the changes and what the estimated cost impact will be. For example, some PBMs may recommend that plan sponsors provide coverage of statins and aspirin without cost sharing for all individuals who meet the age requirements without requiring documentation that all other clinical criteria have been met. This goes beyond what is required by the Affordable Care Act, but it may be more cost effective to administer the benefits in this fashion.

Plan sponsors may use medical management techniques to provide the recommended services in a cost-efficient manner. For example, plan sponsors may provide free coverage for generic statins while charging regular cost sharing for brand, as long as an exception is made for individuals for whom a generic is not medically appropriate.

In addition to implementing the preventive services benefits operationally, it is important to have documentation of the benefit, so that plan participants understand their coverage and the plan sponsor can demonstrate the benefit if audited by the Department of Labor or Centers for Medicare & Medicaid Services. Failure to properly implement a non-grandfathered benefit could lead to excise tax penalties of \$100 per day for each affected individual and/or the imposition of a requirement to re-process claims under the correct standards.

## How Segal Can Help

Segal works with trustees and their carriers/administrators to assess the clinical management and plan design options available when implementing these new requirements, and quantify the costs and impact on participants of each in order to assist plan sponsors in choosing the best approach for their plans and employees. In addition, Segal can help plan sponsors design value-based preventive services programs. Working with fund counsel, Segal can help ensure compliance by reviewing whether all required preventive services are being provided and updating plan documents. Segal's communications professionals can help explain plan changes to participants.

## Questions?

For more information about how these new rules may affect your plan, please contact your Segal consultant or the [Segal office nearest you](#).

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