



**Michael Cohen**, Principal

[michael.cohen@wakely.com](mailto:michael.cohen@wakely.com)

**Darren Johnson**, FSA, MAAA

[darren.johnson@wakely.com](mailto:darren.johnson@wakely.com)

**Ren Zhong**, ASA, MAAA

[ren.zhong@wakely.com](mailto:ren.zhong@wakely.com)

**Emma Pugel**

[emma.pugel@wakely.com](mailto:emma.pugel@wakely.com)

# Analyzing the Impact of *Kennedy v. Braidwood* on Preventive Care Coverage

## Summary

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The Supreme Court's upcoming hearing in the *Kennedy v. Braidwood Management, Inc.* case, set for April 21, 2025, has the potential to reshape the future of preventive care coverage. The ruling will have far-reaching implications for both policy and cost management, impacting how preventive services are covered under the Affordable Care Act (ACA). This report delves into the possible effects of the Court's decision, highlighting the preventive care services that may be affected and providing estimated costs to help health plans and employers assess the potential financial implications.

## Background

In the *Kennedy v. Braidwood Management, Inc.* case, the plaintiffs challenged the ACA's requirement for health plans to cover certain preventive services, arguing that the U.S. Preventive Services Task Force (USPSTF) was unconstitutionally appointed. In 2023, a Texas district court ruled that the USPSTF's recommendations made after March 23, 2010, were not legally binding due to this constitutional issue, blocking federal mandates for those services. The ruling did not affect services recommended before that date or requirements for Women's Preventive Services by Health Resources and Services Administration (HRSA) or vaccines recommended by the CDC's Advisory Committee on Immunization Practices (ACIP). The judge also ruled that the mandate for PrEP coverage (preexposure prophylaxis to prevent HIV) violated the rights of plaintiffs with religious objections. In June 2024, the Fifth Circuit affirmed the unconstitutionality of the USPSTF appointments but limited the remedy to the plaintiffs.

The Supreme Court agreed to hear the appeal on April 21, 2025. One possible outcome of the ruling could be the elimination of the preventive care requirement for services recommended by USPSTF after March 2010. If this occurs, health plans would no longer be obligated to cover certain preventive services recommended after that date, significantly impacting the scope of preventive care coverage. To help health plans and employer groups navigate this evolving landscape, we have summarized the preventive services potentially impacted by the ruling and analyzed the implications of these changes.

## Key Affected Preventive Care Services

### Data Used for Analysis

For our analysis of the average cost of preventive services impacted by a potential Supreme Court ruling, we relied on Wakely's ACA Database (WACA), one of the most robust and comprehensive sources of ACA-related data available in the industry. WACA provides detailed claims, eligibility, and premium data from Edge Servers for over four million lives in the individual and small group markets. This extensive dataset allows for credible, data-driven insights into the cost structure of preventive services, enabling us to assess the financial impact of potential changes to coverage under the ACA.

Given the complexity of the codes and criteria involved in identifying claims that meet the specific preventive care requirements, filtering claims with complete precision is challenging. Although we have made efforts to identify relevant claims based on available data, there may be some variability in the actual number of claims that meet the specific conditions for coverage. To address this, we have provided a range of potential impacts rather than a single definitive number. This approach offers a broader understanding of the possible financial effects while accounting for the inherent variability in the data. As a result, the figures presented should be viewed as estimates, providing a general sense of the potential impact rather than exact values. Additionally, it is possible that the Supreme Court's ruling and resulting impact will differ from the assumptions we have made. There is considerable uncertainty, but we hope that by providing information on one potential outcome that will assist issuers and the public understand the implications of the forthcoming rule.

### Cost Impact of Key Affected Preventive Care Services

Our analysis indicated that preventive care accounts for approximately 2.5% of the total claims. The allowed claims for preventive services affected by the Supreme Court ruling are estimated to range from \$2.00 to \$2.50 per member per month, which represents about 0.4% of the total allowed claims cost and 14% to 18% of the total preventive care claims. Below is a detailed list of each preventive care service potentially impacted by the ruling:

**Table 1 – Summary of Categories and % Impact on Allowed Claims**

Affected Preventive Care	Affected Population	% of Preventive Allowed Claims	
		Low	High
<b>HIV - PrEP:</b> Risk-reducing medications, screening and counseling	Adolescents and adults at increased risk of HIV acquisition	9%	12%
<b>Breast Cancer:</b> Preventive Medication	Women 35 years or older with increased risk of breast cancer	0.2%	0.3%
<b>Lung Cancer LDCT Screening</b>	Adults aged 50 to 80 years who have a 20 pack-year smoking history and currently smoke or have quit within the past 15 years	0.8%	1.0%
<b>Colorectal Cancer Screening</b>	Adults aged 45 to 49 years	0.7%	0.9%
<b>Cardiovascular Disease: Statins</b>	Statin for CVD prevention for adults aged 40 to 75 years who have 1 or more cardiovascular risk factors and an estimated 10-year CVD risk of 10% or greater	1.0%	2.0%
<b>Hepatitis C Virus Screening</b>	Adults aged 22 -79 years	0.8%	1.0%
<b>Unhealthy Drug Use Screening</b>	Adults aged 22 and older	0.02%	0.04%
<b>Pregnancy: Aspirin</b>	Aspirin usage for pregnant persons at high risk for preeclampsia	0.01%	0.01%
<b>Pregnancy: Depression Counseling</b>	All pregnant persons	1.2%	1.4%
<b>Grand Total</b>		<b>14%</b>	<b>18%</b>

## Implications to Issuers and Consumers

While the cumulative costs for the preventive services potentially impacted by the ruling are relatively low when compared to total healthcare expenditures, the impact on individuals who rely on these benefits could be substantial. As we see below, there are especially large annual costs associated with members benefitting from the expanded criteria covering Colorectal Cancer screenings, depression counseling for pregnancy, and the suite of services around HIV PrEP. If the burden of these costs shifted to members, it is likely that some would forgo needed preventive services due to the additional cost sharing burden.

The exact way that these services would be covered if the USPSTF recommendations are rolled back is unclear, and could vary by issuer, line of business, and state. For large group payers they would likely have full flexibility to cover these services at any level they chose – though for the fully-insured large group market some state DOIs may impose requirements.

For ACA Small Group and Individual lines of business, impacts could vary depending on the exact implementation of a ruling. If services remained part of the bundle handled in the AVC they would still likely be covered at a similar level to the plan as a whole. For example, around 80% of the cost if the member was in a gold plan, or around 60% of the cost if the member was in a bronze plan. If services are fully optional to be covered (similar to adult dental services as an example), then some plans may choose not to cover them at all, which result in the full cost burden falling onto members.

The difference between these implementations could be substantial – an average member using PrEP services could be subject to the full \$7,250 of cost in the latter scenario, whereas a similar member in, for example, an ACA gold plan might only have to pay around \$1,450 in cost sharing (while progressing towards their deductible and maximum out of pocket levels).

Table 2 below summarizes the estimated costs and the potentially affected population under this ruling. Based on an ACA Individual and Small Group insured population of approximately 30.3 million<sup>1</sup>, around 6.9 million individuals (23% of the total market if we extrapolated from results on our WACA database), could be impacted by changes to preventive service coverage. Note that the percentage impacted will be less than this due to members likely falling into multiple categories. The full commercially insured population that has access to preventive services without cost sharing (and thus could be impacted) is likely closer to 150 million<sup>2</sup>, but since the data we have access to is focused on the ACA markets we restricted our analysis to impacts on that population.

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<sup>1</sup> Using 2023 Current ACA Individual and Small Group Enrollment as captured in the 2023 Public Use MLR Files – <https://www.cms.gov/marketplace/resources/data/medical-loss-ratio-data-systems-resources>

<sup>2</sup> <https://aspe.hhs.gov/sites/default/files/documents/786fa55a84e7e3833961933124d70dd2/preventive-services-ib-2022.pdf>

**Table 2 – Estimated ACA Affected Population by Category with Unit and Annual Member Costs**

Affected Preventive Care	Total ACA Members Potentially Impacted	Percent of Population	Average Cost Per Member Year	Average Unit Cost
Breast Cancer - Medication	94,000	0.3%	\$135.90	\$31.18
Lung Cancer - Screening	127,000	0.4%	\$354.40	\$206.49
Colorectal Cancer - Screening	46,000	0.2%	\$823.07	\$577.68
CVD - Statins	3,374,000	11.1%	\$76.47	\$18.95
HCV - Screening	1,830,000	6.0%	\$23.37	\$21.29
Unhealthy Drug Use - Screening	76,000	0.3%	\$18.26	\$15.70
Pregnancy - Aspirin Use	12,000	0.0%	\$2.20	\$1.01
Pregnancy - Depression Counseling	67,000	0.2%	\$985.17	\$137.01
HIV - PrEP - Preventive Drugs	70,000	0.2%	\$7,252	\$1,518.32
HIV - PrEP - Screening and Labs	1,092,000	3.6%	\$35.5	\$29.48
HIV - PrEP - Counseling	88,000	0.3%	\$87.74	\$35.78

## Conclusion

The Supreme Court's ruling could influence both the scope of preventive services covered and the associated costs. It is essential for health plans, insurers, and employers to stay informed and be prepared to adapt their benefit designs and cost-sharing structures accordingly. Some insurers may continue to offer preventive services without out-of-pocket costs, others might reintroduce cost-sharing for certain services, which could lead to higher healthcare costs for individuals and impact health outcomes.

Ultimately, the decisions insurers and plan sponsors make in response to the ruling will play a critical role in shaping the future of preventive care delivery. These choices will influence not only the affordability and accessibility of care, but also the long-term sustainability of value-based healthcare strategies aimed at improving health and reducing costs. Continued monitoring, transparent communication, and data-driven evaluation will be key as stakeholders navigate the evolving landscape of preventive service coverage.

## Methodologies and Limitations

We utilized Wakely's ACA Database (WACA), a comprehensive and industry-recognized source of claims data, and applied detailed filtering methodologies to identify claims that align with the services and coverage potentially affected by the ruling. These methodologies were developed based on clinical guidelines and multiple standardized coding systems, including CPT, HCPCS, ICD and NDC codes, as well as our assumptions regarding eligible populations most likely to utilize these services. By leveraging these coding frameworks and assumptions, we were able to categorize claims into specific preventive care groupings and estimate the potential cost impact of each category. This approach enabled us to capture both medical services (such as screenings and counseling) and pharmacy-related preventive interventions (such as pre-exposure prophylaxis or statins).

However, given the complexity of medical coding and the nuanced eligibility criteria for preventive services, identifying all relevant claims with complete precision remains inherently challenging. For example, consider the use of statins for the prevention of cardiovascular disease (CVD). These guidelines specifically exclude adults who already have CVD, exhibit signs or symptoms of CVD, have a low-density lipoprotein (LDL) cholesterol level above 190 mg/dL, or have known familial hypercholesterolemia. Eligible individuals must have one or more CVD risk factors and an estimated 10-year risk of a cardiovascular event of 10% or greater. While we applied exclusion criteria to the best of our ability, identifying the presence of required risk factors through claims data alone can be difficult. As a result, our analysis may overestimate the number of members who would truly qualify under the preventive coverage guidelines.

Additionally, coding practices may vary across providers and issuers, and some services may be inconsistently documented or bundled with non-preventive care. While every effort was made to develop a rigorous and consistent methodology, some variability in classification is expected.

Therefore, the cost estimates provided in this analysis should be viewed as informed approximations, providing a directional understanding of potential impacts rather than precise projections. This approach ensures a balanced representation of potential outcomes while acknowledging the inherent limitations of claims-based analysis.

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Please contact either Darren Johnson at [darren.johnson@wakely.com](mailto:darren.johnson@wakely.com) or Ren Zhong at [ren.zhong@wakely.com](mailto:ren.zhong@wakely.com) with any questions about the analysis done or data used or to follow up on any of the concepts presented in this whitepaper.

## OUR STORY

**Five decades.** Wakely began in 1969 and eventually evolved into several successful divisions. In 1999, the actuarial arm became the current-day Wakely Consulting Group, LLC, which specializes in providing actuarial expertise in the healthcare industry. Today, there are few healthcare topics our actuaries cannot tackle.

**Wakely is now a subsidiary of Health Management Associates.** HMA is an independent, national research and consulting firm specializing in publicly funded healthcare and human services policy, programs, financing, and evaluation. We serve government, public and private providers, health systems, health plans, community-based organizations, institutional investors, foundations, and associations. Every client matters. Every client gets our best. With more than 20 offices and over 400 multidisciplinary consultants coast to coast, our expertise, our services, and our team are always within client reach.

**Broad healthcare knowledge.** Wakely is experienced in all facets of the healthcare industry, from carriers to providers to governmental agencies. Our employees excel at providing solutions to parties across the spectrum.

**Your advocate.** Our actuarial experts and policy analysts continually monitor and analyze potential changes to inform our clients' strategies – and propel their success.

**Our Vision:** To partner with clients to drive business growth, accelerate success, and propel the health care industry forward.

**Our Mission:** We empower our unique team to serve as trusted advisors with a foundation of robust data, advanced analytics, and a comprehensive understanding of the health care industry.

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