

# Lawsuit could stop 150 million from getting free preventive care

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**What's the news:** The AMA and 60 other medical associations and national specialty societies are sounding an alarm over a federal court case being heard in the Northern District of Texas that threatens to abolish the preventive services requirement of the Affordable Care Act (ACA).

The provision requires that health plans—including ACA market plans, and individual, small, large and self-funded group plans—must cover preventive services such as screenings for cancer, heart disease and diabetes, with no patient cost-sharing. Only grandfathered private plans are excluded.

This benefit is enjoyed by more than 150 million patients with private insurance, according to a January Department of Health and Human Services (HHS) issue brief.

The case, *Kelley v. Becerra*, is a class-action lawsuit seeking to have the preventive services requirement declared unconstitutional, and it is being heard by Judge Reed O'Connor.

In a 2018 decision that was later overturned by the U.S. Supreme Court, O'Connor ruled in *Texas v. California* that the entire ACA was unconstitutional.

In a sign-on statement, the physician organizations expressed concern that eliminating the preventive services requirement could reverse positive health trends that have been achieved by the early detection and treatment of diseases and other medical conditions.

“For more than a decade, expanded coverage of preventive health care services has made an enormous positive impact on patient health,” the statement says. “This court case jeopardizes that progress.”

**Why it's important:** Evidence shows that more Americans use preventive services when they are free to patients. And when Americans use preventive services, health outcomes improve.

An adverse ruling would mean that patients would lose access to vital preventive health care services, such as screening for breast cancer, colorectal cancer, cervical cancer, heart disease, obesity, diabetes, preeclampsia, and hearing, plus well-child visits and access to immunizations.

“Our patients cannot afford to lose this critical access to preventive health care services,” the physicians’ statement says. “Rolling back this access would reverse important progress and make it harder for physicians to diagnose and treat diseases and medical conditions that, if caught early, are significantly more manageable.”

The HHS, in its issue brief, agreed.

“Investments in prevention in the early and middle decades of life, when people are more likely to be covered by private health coverage including marketplace insurance and Medicaid, may also help people enter the Medicare program at age 65 in better health,” the HHS issue brief says.

The HHS brief also reports that the ACA increased colon cancer screening, vaccinations, use of contraception and chronic-disease screening.

The physicians’ statement cites a study from the journal *Applied Health Economics and Health Policy* that says there has been a reduction in racial and ethnic inequities in the use of preventive care since the ACA was enacted.

Specifically, the requirement calls for coverage without cost-sharing for preventive services in these four categories:

- Services with a rating of “A” or “B” in the current recommendations of the U.S. Preventive Services Task Force (USPSTF).
- Immunizations recommended by the Advisory Committee on Immunization Practices (ACIP).
- Preventive care and screenings for infants, children and adolescents included in comprehensive guidelines supported by the HHS Health Resources and Services Administration (HRSA).
- Preventive care and screenings for women’s health specified in HRSA guidelines.

The lawsuit’s plaintiffs argue that the requirement is unconstitutional because members of the USPSTF, ACIP and HRSA have not been nominated by the president or confirmed by the Senate. Others have countered, however, that it was Congress—and not these agencies—that dictated the scope of preventive services and Congress specified the agencies’ use of well-established standards to guide their decision.

**Learn more:** Read about the AMA’s vision for health care reform which calls for improving—and not abandoning—the ACA. Discover how the law’s coverage benefits can be enhanced, and find out what actions should be taken to build upon the coverage gains (PDF) that have been achieved.