August 1, 2012

6 Overview: New Women Preventive Care Requirements under ACA

On August 1, 2011, the Department of Health and Human Services' Health Resources and Services Administration (HRSA) announced new guidelines for providing preventive services to women, which include some exemptions for religious employers. (See MCS FHR Guidance #6 – Preventive Care Requirements under ACA).

- The new guidelines amends the interim final regulations implementing the rules for group health plans and health insurance coverage in the group and individual markets under provisions of the Patient Protection and Affordable Care Act (ACA) regarding preventive health services.
- The guidelines follow closely the recommendations published on July 19, 2011 from the Institute of Medicine (IOM), which add eight preventive health services for women, and which health plans must cover at no cost to patients, under Public Health Service Act Sec. 2713, as added by ACA.
- The HRSA guidelines also adopt regulatory provisions published in the August 3, 2011 Federal Register, which provide exemptions for religious employers where contraceptive services are concerned.
- The rules governing coverage of preventive services allow plans to use reasonable medical management to help to define the nature of the covered service. Plans will retain the flexibility to control costs and promote efficient delivery of care by, for example, continuing to charge cost-sharing for branded drugs if a generic version is available and is just as effective and safe for the patient to use.
- The new HRSA guidelines are available at http://www.hrsa.gov/womensguidelines/.
- Following is the link to the complete list of all recommended preventive services on the Federal government's healthcare.gov website:

  http://www.healthcare.gov/center/regulations/prevention/recommendations.html.

- Out-of-network Providers:
  - Plans or issuers will not be required to provide any benefits for the preventive care services described above that are delivered by an out-of-network provider.
  - Additionally, a plan or issuer with a network of providers will be able to apply cost-sharing requirements for services that are delivered by an out-of-network provider.

- Timing:
  - Generally, plans must provide coverage for the preventive services described above for plan years that begin on or after August 1, 2012, or if later, for plan years that begin on or after the date that is one year after the relevant recommendation or guideline is issued.

- Religious Exemption:

  - The religious exemption for contraceptive services is included in an interim final rule from the Internal Revenue Service, the Employee Benefits Security Administration (EBSA), and the Centers for Medicare and Medicaid Services (CMS).

  - Under the interim final rule, group health plans sponsored by certain religious employers, and group health insurance coverage in connection with such plans, are exempt from the requirement to cover contraceptive services.

  - A religious employer is one that meets all of these criteria:

    1) has the inculcation of religious values as its purpose;
    2) primarily employs persons who share its religious tenets;
    3) primarily serves persons who share its religious tenets; and
    4) is a nonprofit organization under IRC Secs. 6033(a)(1) and 6033(a)(3)(A)(i) or (iii).

Applicability

- The Regulation only applies to non-grandfathered plans. The Regulation applies to both self-funded and insured non-grandfathered plans (group and individual coverage). Exceptions apply to religious organizations.

Effective Date

- Rules are effective on August 1, 2011. New plans and issuers must provide coverage for the new women's preventive services described above for plan years (policy years in the individual market) that begin on or after August 1, 2012.

MCS Plan

- Review plans and policies to ensure that:
  (1) all recommended preventive services are covered according to ACA, and
  (2) no cost-sharing is imposed on the women recommended preventive services that are provided in-network.

- While the regulation lists those recommended preventive services that must be covered without cost-sharing for the upcoming plan year, MCS will continue to monitor any updates to the women recommended preventive services list.

References

- 45 CFR Part 147, 76 FR 46621 (August 3, 2011), 77 FR 8725 (February 15, 2012), 77 FR 16501 (March 21, 2012)
- http://www.cciio.cms.gov/resources/regulations/index.html#prevention
- http://www.healthcare.gov