Health Care in Motion

Timely, Substantive Updates on Policy Shifts · Actionable Advocacy to Protect Health Care

July 7, 2025

The Supreme Court's Decision in *Kennedy v. Braidwood*: A Win for Now, But for How Long?

In an important decision upholding yet another provision of the Affordable Care Act (ACA), the Supreme Court on Friday held constitutional the ACA's requirement that private insurers cover certain recommended preventive services without cost-sharing. The decision guarantees—for now—that all privately insured adults and children can continue to access, at no personal cost, a host of preventive services recommended by the U.S. Preventive Services Task Force (USPSTF). The USPSTF is the federal body of medical experts charged with issuing recommendations for preventive care for adults and children. Under the ACA, all services with a grade A or B from the USPSTF must be covered without cost-sharing for the more than 150 million people in the U.S. with private insurance.

However, continued vigilance and advocacy will be necessary to ensure the scientific integrity and independence of USPSTF's recommendations during the current Administration and beyond. Read on for a breakdown of the ruling, how it will impact access to healthcare, and what will happen in this case next.

Supreme Court Allows the USPSTF to Remain, But Provides the Secretary of HHS with Significant Control Over the Task Force

The primary legal issue before the Supreme Court was whether the members of the USPSTF are appointed in a manner consistent with the Appointments Clause of the U.S. Constitution. The Appointments Clause requires that principal federal officers be selected by the President and confirmed by the Senate, but inferior officers who work under the principal officers do not have to go through this process. Since 2023, USPSTF members have been appointed by the Secretary of HHS, and they do not go through Senate confirmations. Therefore, if UPSTSF members are *principal officers*, their appointment process violates the Appointments Clause, and private insurers cannot be required to cover services that USPSTF recommends, as the Fifth

Background on *Braidwood*

Braidwood concerns a group of conservative Christian employers and individuals who sought to overturn the requirement to cover USPSTF-recommended preventive services because they include a recommendation for Pre-Exposure Prophylaxis (PrEP), which prevents HIV transmission. While this case began as yet another attack on healthcare that is especially important for systemically marginalized communities, the constitutional arguments at the center of the appeal threatened one of the most popular provisions of the ACA and access to a host of cancer screenings, preventive medications, and other interventions. For more on the legal history and impact of this case, see CHLPI's Braidwood FAQ and analysis of the Fifth Circuit's decision.

Circuit held when it reviewed this case. Writing for a 6-3 majority, Justice Brett Kavanaugh reversed the Fifth Circuit, ruling that the requirement to cover USPSTF A & B recommendations free of cost is constitutional because the USPSTF appointments process does not violate the Appointments Clause. Consistent with Supreme Court precedent on this issue, the Court held that the members of USPSTF are *inferior officers* because the Secretary has significant power to supervise and direct their work. That power includes the ability to remove members of USPSTF at will and to review and refuse to approve USPSTF recommendations before they take effect. This is true despite the statutory language requiring USPSTF to be "independent and, to the extent practicable, not subject to political pressure"—which Justice Kavanaugh interpreted to mean essentially free of undue influence by outside affiliations and conflicts of interest but not insulated from HHS.

As a result, Friday's ruling is a victory in that it preserves the ACA's structure for ensuring affordable access to preventive care. It remains to be seen, however, how Secretary Kennedy and future administrations will wield the power that they hold over the USPSTF.

Questions Remain About the Future of Preventive Care

Given how difficult it would have been to pass new federal legislation ensuring access to preventive services had the rule requiring coverage of USPSTF-recommended services been held unconstitutional, Friday's Supreme Court decision is a welcome win for access to care. Leaving intact the zero cost-sharing mandate for PrEP, cancer screenings, heart disease and breast cancer preventive medications, and many other critical interventions ensures that, at least for the short term, millions of people can continue to receive the preventive services they need without financial barriers.

Although CHLPI and its partners are celebrating this decision, there are potential concerns on the horizon. Secretary Kennedy's recent actions undermining the Advisory Committee for Immunization Practices (ACIP)—which recommends vaccines that must also be covered without cost-sharing under the ACA—have demonstrated his willingness to upend federal bodies charged with making critical decisions about public health and to install unorthodox candidates on these committees. Whether and how he decides to use his newly clarified powers over the USPSTF could significantly impact whether privately insured individuals continue to be assured robust access to preventive care without cost-sharing.

Further proceedings in the lower federal courts could also potentially undermine access to preventive care for any recommendations issued between 2010 and 2023, as well as access to vaccines recommended by ACIP and preventive services for women and children recommended by the Health Resources and Services Administration

What about *Braidwood*'s Religious Freedom Restoration Act (RFRA) claims?

The *Braidwood* plaintiffs had also made a claim in the district court that the requirement to cover PrEP and certain other preventive services violated their right to religious freedom under RFRA. They won on this argument, and the Biden Administration chose not to appeal the decision on this issue because the ruling applied to the plaintiffs only, not the entire country. That decision still stands, meaning the *Braidwood* plaintiffs themselves will not be required to cover PrEP without cost-sharing regardless of Friday's ruling. However, for any other person or employer to obtain a similar religious exemption, currently, they would have to bring another lawsuit and persuade the court that they are entitled to this relief. In other words, the *Braidwood* district court decision does not dictate the outcome in any other case on this issue.

(HRSA). The majority's opinion in *Braidwood* closed with an order remanding (meaning sending back) the case to the lower federal courts for further proceedings consistent with the decision. While the decision was somewhat ambiguous as to what remains to be addressed on remand, the lower courts may consider the status of the USPSTF's recommendations issued between 2010 (when the ACA was enacted) and June 2023 (when previous Secretary of HHS Xavier Becerra reappointed all members of USPSTF). Prior to June 2023, members of the USPSTF were appointed only by the Director of the Agency for Healthcare Research and Quality (AHRQ), a subagency within HHS. While Friday's decision clearly holds that members of USPSTF have been properly appointed consistent with USPSTF's authorizing statute and the Appointments Clause since June 2023, the decision does not expressly rule on the validity of the members' appointments prior to that date. Depending on how the remand plays out, this could impact coverage of the many preventive services with recommendations finalized between June 2010 and June 2023. (Notably, the USPSTF's most recent recommendation for PrEP should not be impacted by this issue, as the latest PrEP recommendation was published in August 2023.)

Finally, conservative religious employers and private individuals could attempt to build on the *Braidwood* plaintiffs' success under RFRA in future litigation or through regulatory advocacy.

What's Next?

With the Supreme Court's decision issued in *Braidwood*, the battle to preserve affordable access to preventive care returns to the lower courts and expands to include advocacy to the Administration. In addition to the remand ordered in Friday's decision, other legal issues regarding whether ACIP- and HRSA-recommended preventive services must be covered are waiting to be litigated in the district court. Meanwhile, for the reasons discussed, advocates will be watching closely to see whether Secretary Kennedy makes any moves to change the composition of USPSTF or to attempt to revise its current recommendations. Vigorous advocacy to the Administration will likely be necessary to continue to emphasize the importance of preventive care to keeping people healthy, a goal Secretary Kennedy notes as important to him. Advocates should also continue to encourage state legislators and insurance regulators to protect access to preventive care at the state level wherever possible in light of potential future changes to USPSTF.

Medina v. Planned Parenthood

On Thursday, June 26, 2025, the Supreme Court issued another high-profile decision impacting access to health care. In Medina, the Court refused to allow a South Carolina woman and Planned Parenthood to bring a lawsuit challenging the state's decision to exclude Planned Parenthood from Medicaid coverage. Coming soon, Health Care in Motion will break down key takeaways from this case and what it means for Medicaid more broadly.

Subscribe to all Health Care in Motion Updates

Health Care in Motion is written by Carmel Shachar, Health Law and Policy Clinic Faculty Director; Kevin Costello, Litigation Director; Elizabeth Kaplan, Director of Health Care Access; Maryanne Tomazic, Clinical Instructor John Card, Staff Attorney; and Anu Dairkee, Clinical Fellow.

*For further questions or inquiries please contact us at **chlpi@law.harvard.edu**.*