FREE MARKET
MEDICAL ASSOCIATION

Legislating via "FAQ": *The Nightmare of Determining What is Considered a Preventive Service Under the ACA*

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For many, understanding how benefits will be paid since the passage of the ACA has become an increasing headache. Instead of a clear outline of benefits, insurers, TPAs, and other claims payers, have been forced to indicate a service will be paid in accordance with a "mandate." The "preventive care" mandate is not defined in the law. Instead, regulations were issued by various government agencies, such as the Internal Revenue Service (IRS), The Department of Health and Human Services (HHS), and the Department of Labor (DOL). These rules and regulations purportedly defining preventive services are constantly changing about how a particular service is "interpreted" under the law. This is particularly frustrating when dealing with preventive care benefits.

Frustration of patients, physicians, and claims payers in determining what medical services the law views are actually payable at 100% under the Preventive Services guidelines is at an all-time high. Since none of the government agencies involved in writing the regulations and guidelines stand up and waive a big flag to alert anyone involved when some "interpretation" changes, confusion runs rampant. Providers are never quite sure if what they are ordering for their patients will or will not be paid the way the media has portrayed. Patients are never sure if the benefit will be paid the way the customer service representative at their claims payer has indicated. Why? Because no one is ever sure if the rules will change tomorrow based on another release of "frequently asked questions ("FAQ") or if an important piece of wording will be found buried in another study on a website no one knew existed.

The U.S. Preventive Services Taskforce was created to deal with this specific section of the law. This taskforce published "recommendations" with which all non-grandfathered health plans must comply. These recommendations list all of the medical services that are considered "preventive" that must be paid at 100%, with no cost sharing to the participant under the ACA.

The recommendations listed with their corresponding descriptions are, at best, vague; leaving room for interpretation at what exactly must be covered within that service with no cost sharing. Instead of writing a real regulation that specifically outlines what must be covered, HHS has decided that instead, they are going to leave this task up to what amounts to be glorified think tanks (also known as newly created government agencies) under HHS's umbrella.

Instead of writing true regulations, these think tank groups have done 'studies' that determine what they feel should be included and covered as preventive and then publish that interpretation in an FAQ. For example, the Health Resources and Services Administration (HRSA), was created "for improving access to health care by strengthening the health care workforce, building healthy communities and achieving health equity." This group is responsible for the FAQ that gives guidelines on what should be covered for "Prevention Coverage for Women's Health and Well-Being". To find what is included for women, one must go to the HRSA website, find the guidelines, then click on another link to find the FAQ and finally, find details on how items should be covered. For example, are you searching for whether the removal of an IUD should be covered under the preventive care requirements? The answer? Maybe and it depends.

U.S. Preventive Services Taskforce website specifically states, "**On this page** you will find easy-to-understand information on the Task Force and on health topics for which the Task Force has **released a recommendation**. These materials include guides, fact sheets, slideshows, and videos available for view and download...**These materials are designed to inform people about Task Force recommendations** and are not intended to replace advice from a health professional." Included in the list is the HRSA, Agency for Healthcare Research and Quality (AHRQ), and never to be left out, the **Canadian Task Force on Preventive Health Care.**

In order to keep up with what should and should not be covered, physicians, patients, and claims payers are expected to keep up with no less than 131 linked listings for which they have made recommendations.

This is one of the MANY reasons why it is so vitally important for the free market providers, the FMMA, and all of our supporters to promote free market options for this type of care. Getting the government out of our healthcare, especially our day to day primary care, is more important than ever. **Direct Primary Care physicians**, THIS should be your battle cry with self-funded employers and TPA's. Being able to eliminate this ridiculous, nonsensical, rigmarole while taking <u>better</u> care of your patients, is your golden ticket and will make you able to expand your business.

We can help stop the insanity for ourselves, our employees, and our communities. Promote and Support DPC. Promote and Support ALL Free Market Minded Providers.