

Post-Braidwood Comparison of USPSTF Recommendations



On Thursday, March 30, 2023, Judge O'Connor released a final opinion on remedies in Braidwood Management vs. Becerra, a case regarding the constitutionality of the ACA's coverage of United States Preventive Services Task Force (USPSTF) recommended preventive services.¹ The ACA added section 2713 to the Public Health Service Act ("Section 2713") which requires, among other things, that certain plans cover USPSTF A and B recommended services with no cost-sharing. In his final opinion, Judge O'Connor ruled that plans would only be required to cover USPSTF A and B recommended services with no cost-sharing that were in effect prior to March 23, 2010 (the date of enactment of the ACA).

The Judge's ruling has a direct impact on what preventive services would be covered with no cost-sharing. There is concern that requiring plans to cover preventive services that existed as of March 23, 2010, discount the latest evidence around effective cancer prevention and early detection. The following chart compares the current USPSTF recommendations to those that were in place as of March 23, 2010, showing the differences in the recommendations that would be impacted by the ruling.²

Research has consistently shown the benefits of providing coverage of preventive services at no cost to individuals. ACS CAN is disappointed in the March 30th ruling in the Braidwood case, which threatens to erode more than a decade of progress reducing cancer deaths and suffering. ACS CAN will continue to closely monitor the ongoing litigation and will continue to support and advocate for coverage of evidence-based preventive services at no cost sharing.

Cancer Screenings

USPSTF Recommendation	Who is Covered	What is Covered	Key Difference Between Recommendations
Cervical Cancer^{3,4,5}			
August 21, 2018*	Women Aged 21-65 ("A")	Women Aged 21-29 -- every 3 years with Pap alone; Women Aged 30-65 -- every 3 years with Pap alone; every 5 years with high-risk human papillomavirus (hrHPV) testing alone; or every 5 years with hrHPV testing in combination with Pap (cotesting).	The 2018 recommendation specifies that screening begin at age 21; excluding teens (who were included in the 2003 recommendation). It adds the option for HPV testing and cotesting (neither of which were included in the 2003 recommendation) and provides additional information on specific tests to be covered; interval of testing depends on the modality of test (up to 5 years).
January 07, 2003	Women up to age 65 who have been	Recommends starting screening at onset of sexual activity or age 21	

¹ The case also challenged recommendations made by the Advisory Committee on Vaccine Practices (ACIP) and the Health Resources and Services Administration (HRSA), but the judge ruled in the government's favor on those claims, so this reference is limited to USPSTF recommendations. Both plaintiffs and the government are appealing the decision to the US Court of Appeals for the Fifth Circuit. See Braidwood Management Inc. v Becerra, (4:20-cv-00283), District Court, N.D. Texas.

² Note that some of the pre 2010 USPSTF recommendations are written to explain the risks and benefits and are not as clear recommendation statements as newer recommendations. Therefore, some of the differences may not be clear or subject to interpretation.

³ Section 2713 also requires health plans to cover recommendations from ACIP and the HRSA (including those for well-women care). HRSA also recommends cervical cancer screening recommendations. Thus, it is possible that some women may still have access to cervical cancer screening as a result of the HRSA guidelines, which were left intact by the district court's decision.

⁴ The USPSTF issued cervical cancer screening recommendation in [March 2012](#).

⁵ The USPSTF is currently [in the process](#) of updating its cervical cancer screening recommendations.

USPSTF Recommendation	Who is Covered	What is Covered	Key Difference Between Recommendations
	sexually active and have a cervix (“A”)	(whichever is first) at least every 3 years with cervical cytology	
Colorectal Cancer⁶			
May 18, 2021	Adults Aged 50 to 75 (“A”) Adults Aged 45-49 (“B”)	<ul style="list-style-type: none"> • High-sensitivity gFOBT (every year) (stool based) • FIT (every year) (stool based) • sDNA-FIT (every 1-3 years) (stool based) • Colonoscopy (every 10 years) • CT colonography (every 5 years) • Flexible sigmoidoscopy (every 5 years) • Flexible sigmoidoscopy with FIT (flex sig over 10 years plus FIT every year) <p>Clarification that follow-on colonoscopies are part of the screening continuum.</p>	<p>The 2021 recommendation lowers the minimum age of screening to 45 (consistent with the 2018 American Cancer Society guidelines). Additional testing modalities are included in the recommendation, including the FIT and sDNA-FIT tests (e.g., Cologuard) that were not included and/or yet developed in 2008.</p> <p>Also, 2021 recommendation clarified that follow-on colonoscopies are part of the screening continuum, which the Tri-Agencies clarified should be provided at no cost-sharing.⁷</p>
October 15, 2008	Adults Aged 50 to 75 (“A”)	<ul style="list-style-type: none"> • High-sensitivity FOBT • Sigmoidoscopy with interval FOBT • Colonoscopy 	
Lung Cancer⁸			
March 9, 2021	Adults aged 50 to 80 with a 20 pack-year history and currently smoke or have quit within the past 15 years (“B”)	<ul style="list-style-type: none"> • Recommends annual screening for lung cancer with low-dose computed tomography (LDCT) • Screening should be discontinued once a person has not smoked for 15 years or develops a health problem that substantially limits life expectancy or the ability or willingness to have curative lung surgery. 	<p>NEW RECOMMENDATION:</p> <p>The pre-ACA USPSTF recommendation did not recommend lung cancer screening.</p>

⁶ The USPSTF issued colorectal cancer screening recommendations in [June 2016](#).

⁷ FAQ about Affordable Care Act Implementation Part 51, Families First Coronavirus Response Act and Coronavirus Aid, Relief, and Economic Security Act Implementation (Jan. 10, 2022), available at <https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/faqs/aca-part-51.pdf>.

⁸ The USPSTF issued lung cancer screening recommendations in [December 2013](#).

USPSTF Recommendation	Who is Covered	What is Covered	Key Difference Between Recommendations
May 15, 2004	Asymptomatic Adults (“I”)	USPSTF concludes that the evidence is insufficient to recommend for or against screening asymptomatic persons for lung cancer with either low dose computerized tomography (LDCT), chest x-ray (CXR), sputum cytology, or a combination of these tests.	
Breast Cancer Screening ⁹			
January 11, 2016*	Women Aged 50-74 (“B”)	Women Aged 50-74 biennial screening mammography	Due to subsequent Congressional action, plans are required to cover the more inclusive Sept 2002 USPSTF recommendation so this recommendation is not impacted by the decision.
December 15, 2009	Women Aged 50-74 (“B”)	Women Aged 50-74 biennial screening mammography	
September 3, 2002	Women Aged 40+ (“B”)	Women Aged 40+ screening with mammography, with or without clinical breast examination (CBE), every 1-2 years	
Skin Cancer Prevention: Behavioral Counseling ^{10, 11}			
March 20, 2018	Young adults, adolescents, children, and parents of young children, ages 6 months to 24 years with fair skin types (“B”)	Recommends counseling young adults, adolescents, children, and parents of young children about minimizing exposure to ultraviolet (UV) radiation with fair skin types to reduce their risk of skin cancer	NEW RECOMMENDATION: The pre-ACA USPSTF recommendation received an “I” rating and thus plans were not required to cover skin cancer behavioral counseling.
October 6, 2003	All Persons (“I”)	USPSTF concludes that the evidence is insufficient to recommend for or against routine counseling by primary care clinicians to prevent skin cancer.	
Breasts Cancer – Medication to Reduce Risk ¹²			
September 3, 2019	Women at increased risk for breast cancer aged 35+	Recommends clinicians offer to prescribe risk-reducing medications, such as tamoxifen,	The 2002 recommendation recommends a discussion and the use as tools such as the Gail Model ¹³ to “help individual

⁹ The USPSTF is currently [in the process](#) of updating its breast cancer screening recommendations.

¹⁰ The USPSTF issued skin cancer prevention recommendations in [May 2012](#).

¹¹ The USPSTF is currently [in the process of updating](#) its skin cancer screening recommendations.

¹² The USPSTF issued breast cancer medication to reduce risk recommendations in [September 2013](#).

¹³ Of note, the Gail model was developed specifically for White women.

USPSTF Recommendation	Who is Covered	What is Covered	Key Difference Between Recommendations
	("B")	raloxifene, or aromatase inhibitors, to women who are at increased risk for breast cancer and at low risk for adverse medication effects.	patients considering tamoxifen therapy "estimate the potential benefit" and did not specify an age and references high versus increased risk.
July 8, 2002	Women at High Risk for Breast Cancer ("B")	Recommends clinicians discuss chemoprevention with women at high risk for breast cancer and at low risk for adverse effects of chemoprevention. Clinicians should inform patients of the potential benefits and harms of chemoprevention. ¹⁴	The 2019 recommendation includes raloxifene, aromatase inhibitors, and tamoxifen. The 2002 recommendation included tamoxifen.
BRCA-Related Cancer: Risk Assessment, Genetic Counseling & Genetic Testing¹⁵			
August 20, 2019	Women with a personal or family history of breast, ovarian, tubal, or peritoneal cancer or an ancestry associated with <i>BRCA1/2</i> gene mutation ("B")	<ul style="list-style-type: none"> Recommends primary care clinicians assess women with a personal or family history of breast, ovarian, tubal, or peritoneal cancer or who have an ancestry associated with breast cancer susceptibility 1 and 2 (<i>BRCA1/2</i>) gene mutations with an appropriate brief familial risk assessment tool. Women with a positive result on the risk assessment tool should receive genetic counseling and, if indicated after counseling, genetic testing. 	The 2005 recommendation was only for women who had a family history associated with increased risk, and primary care providers referred them to genetic counseling without further assessment. The 2019 recommendation extended the recommendation to also include women who are cancer free, breast, ovarian, tubal and peritoneal cancer survivors. The 2019 recommendation also provides stronger language about ancestry that applies predominantly to Ashkenazi Jews related to risk. The 2019 recommendation advises primary care providers to use an assessment tool to determine who should be referred to genetic counseling. ¹⁶
September 15, 2005	Women, at Increased Risk ("B")	Recommends women whose family history is associated with an increased risk for deleterious mutations in <i>BRCA1</i> or <i>BRCA2</i> genes be referred for genetic counseling and evaluation for <i>BRCA</i> testing	

¹⁴ Of note, in the 2002 Clinical Considerations section of the Recommendation and Rational, the USPSTF states that there is less evidence evaluating raloxifene for chemoprevention, that trials are ongoing, and there was reason to believe that its benefit profile would be similar to tamoxifen.

¹⁵ The USPSTF issued BRCA-related cancer recommendations in [December 2013](#).

¹⁶ This recommendation was one of the first to address transgendered individuals (in this case trans men). The 2019 recommendation specifically notes: "While this recommendation applies for women, the net benefit estimates are driven by biological sex (i.e., male/female) rather than gender identity. Persons should consider their sex at birth to determine which recommendation best applies to them." A similar statement was not included in the 2005 recommendation.

Behavioral Risk Factors

USPSTF Recommendation	Who is covered	What is covered	Key Difference Between Recommendations
Healthy Weight ¹⁷ and Weight Gain in Pregnancy: Behavioral Counseling Interventions			
May 25, 2021	Pregnant persons (“B”)	Recommends that clinicians offer pregnant persons effective behavioral counseling interventions aimed at promoting healthy weight gain and preventing excess gestational weight gain in pregnancy.	NEW RECOMMENDATION: There was no pre-ACA USPSTF recommendation.
There have not been any other historical recommendations.			
Weight Loss to Prevent Obesity-Related Morbidity and Mortality in Adults: Behavioral Interventions			
September 18, 2018	Adults (“B”)	Recommends that clinicians offer or refer adults with a body mass index (BMI) of 30 or higher (calculated as weight in kilograms divided by height in meters squared) to intensive, multicomponent behavioral interventions.	Little notable difference here. The pre-ACA says to offer interventions to obese adults and the post-ACA version says individuals with a BMI of 30 or higher – which is the definition of obese.
November 3, 2003	All Adults (“B”)	Recommends clinicians screen all adult patients for obesity and offer intensive counseling and behavioral interventions to promote sustained weight loss for obese adults.	
Obesity in Children and Adolescents: Screenings ^{18,19}			
June 20, 2017*	Children and adolescents 6 years and older	Recommends that clinicians screen for obesity in children and adolescents 6 years and older and offer or refer them to comprehensive, intensive behavioral interventions to promote improvements in weight status.	No change
January 15, 2010	Children aged 6 years and older	Recommends that clinicians screen children aged 6 years and older for obesity and offer them or refer	

¹⁷ Excess body weight (including overweight or obesity) is associated with an increased risk of developing several types of cancer including uterine corpus (endometrium), esophagus (adenocarcinoma), liver, stomach (cardia), kidney (renal cell), meningioma, multiple myeloma, pancreas, colorectum, gallbladder, ovary, female breast (postmenopausal), and thyroid. American Cancer Society. *Cancer Prevention & Early Detection Facts & Figures 2021-2022*. Atlanta: American Cancer Society; 2021.

¹⁸ There were no intervening USPSTF recommendations between January 2010 and June 2017.

¹⁹ The USPSTF issued weight loss to prevent obesity-related morbidity and mortality recommendations in [June 2012](#).

USPSTF Recommendation	Who is covered	What is covered	Key Difference Between Recommendations
		them to comprehensive, intensive behavioral intervention to promote improvement in weight status.	
Tobacco ²⁰ Smoking Cessation in Adults, Including Pregnant Persons: Interventions ²¹			
January 19, 2021	Pregnant persons (“A”)	Recommends clinicians ask all pregnant persons about tobacco use, advise them to stop using tobacco, and provide behavioral interventions for cessation to pregnant persons who use tobacco.	Pregnant women: the pre-ACA recommendation did not include a recommendation to advise pregnant women to stop using tobacco (but to ask about tobacco use and recommend counseling). The 2021 recommendation recommends providers advise pregnant women to stop using tobacco. Non-pregnant adults: the pre-ACA recommendation did not recommend that providers advise individuals to stop using tobacco. The 2021 recommendation provides greater clarity in tobacco cessation interventions (specifically including FDA-approved pharmacotherapy).
	Nonpregnant adults (“A”)	Recommends clinicians ask all adults about tobacco use, advise them to stop using tobacco, and provide behavioral interventions and FDA-approved pharmacotherapy for cessation to nonpregnant adults who use tobacco.	
April 15, 2009	Pregnant Women (“A”)	Recommends clinicians ask all pregnant women about tobacco use and provide augmented, pregnancy-tailored counseling for those who smoke.	
	All Adults (“A”)	Recommends clinicians ask all adults about tobacco use and provide tobacco cessation interventions for those who use tobacco products.	
Tobacco Use in Children and Adolescents: Primary Care Interventions ²²			
April 28, 2020	School-aged children and adolescents who have not started to use tobacco (“B”)	Recommends primary care clinicians provide interventions, including education or brief counseling, to prevent initiation of tobacco use among school-aged children and adolescents.	NEW RECOMMENDATION: The 2020 recommendation recommends primary care clinicians provide interventions, including education or brief counseling to prevent initiation of tobacco use. The pre-ACA recommendation did not.
November 1, 2003	Children and adolescents	USPSTF concludes that the evidence is insufficient to	

²⁰ In addition to lung cancer, cigarette smoking increases the risk of other cancers including those of the oral cavity and pharynx, larynx, esophagus, pancreas, uterine, cervix, kidney, bladder, stomach, colorectum, and liver. *Cancer Prevention & Early Detection Facts & Figures 2021-2022*.

²¹ The USPSTF issued tobacco cessation in adults intervention in [September 2015](#).

²² The USPSTF issued tobacco use in children and adolescents: primary care intervention recommendations in [August 2013](#).

USPSTF Recommendation	Who is covered	What is covered	Key Difference Between Recommendations
	("I")	recommend for or against routine screening for tobacco use or interventions to prevent and treat tobacco use and dependence among children or adolescents.	
Hepatitis B ²³ Virus Infection in Adolescents and Adults: Screening ²⁴			
December 15, 2020	Adolescents and adults at increased risk for infection ("B")	Recommends screening for hepatitis B virus (HBV) infection in adolescents and adults at increased risk for infection. See the Practice Considerations section for a description of adolescents and adults at increased risk for infection.	NEW RECOMMENDATION: Recommendation issued prior to the enactment of the ACA recommended against screening general asymptomatic population. Current recommendation is for screening for adolescents and adults at increased risk of infection.
February 15, 2004	Adults ("D")	Recommends against routinely screening the general asymptomatic population for chronic hepatitis B virus infection.	
Hepatitis B Virus Infection in Pregnant Women: Screening ²⁵			
July 23, 2019	Pregnant Women ("A")	Recommends screening for hepatitis B virus (HBV) infection in pregnant women at their first prenatal visit	No change
February 15, 2004	Pregnant Women ("A")	Strongly recommends screening for Hepatitis B Virus (HBV) infection in pregnant women at their first prenatal visit.	
Hepatitis C ²⁶ Virus Infection in Adolescents and Adults: Screening ²⁷			
March 2, 2020	Adults aged 18 to 79 years ("B")	Recommends screening for hepatitis C virus (HCV) infection in adults aged 18 to 79 years.	NEW RECOMMENDATION:

²³ Chronic infection with hepatitis B virus (HBV) causes liver cancer and has been shown to increase the risk of non-Hodgkin lymphoma. *Cancer Prevention & Early Detection Facts & Figures 2021-2022*.

²⁴ In [June 2014](#) the USPSTF issued a B recommendation for screening for Hep B virus infection in persons at high risk for infection.

²⁵ The USPSTF issued Hepatitis B screening for pregnant women recommendations in [June 2009](#).

²⁶ Chronic infection with hepatitis C virus (HCV) causes liver cancer and has been shown to increase the risk of non-Hodgkin lymphoma. *Cancer Prevention & Early Detection Facts & Figures 2021-2022*.

²⁷ The USPSTF issued a Hepatitis C screening recommendation in [June 2013](#).

USPSTF Recommendation	Who is covered	What is covered	Key Difference Between Recommendations
March 8, 2004	Adults who are not increased risk for infection (“D”)	The USPSTF recommends against routine screening for hepatitis C virus (HCV) infection in asymptomatic adults who are not at increased risk (general population) for infection.	The 2020 recommendation recommends screening for adults 18-75. The pre-ACA recommendation did not.
Unhealthy Alcohol Use²⁸ in Adolescents and Adults: Screening and Behavioral Counseling Interventions²⁹			
November 13, 2018	Adults 18 years or older, including pregnant women (“B”)	Recommends screening for unhealthy alcohol use in primary care settings in adults 18 years or older, including pregnant women, and providing persons engaged in risky or hazardous drinking with brief behavioral counseling interventions to reduce unhealthy alcohol use.	No real change, essentially the same recommendation pre & post ACA.
April 6, 2004	Adults, including pregnant women (“B”)	Recommends screening and behavioral counseling interventions to reduce alcohol misuse by adults, including pregnant women, in primary care settings.	

²⁸ Approximately 6% of cancer cases can be attributed to alcohol consumption, which increases the risk for cancers of the mouth, pharynx, larynx, esophagus, liver, colorectum, and female breast. *Cancer Prevention & Early Detection Facts & Figures 2021-2022*.

²⁹ The USPSTF issued recommendations in [May 2013](#).