

# ACA COMPLIANCE BULLETIN



## Court Ruling Expected Soon on Free Preventive Care

The 5th U.S. Circuit Court of Appeals is expected to issue a decision within the next few months regarding the constitutionality of the Affordable Care Act's (ACA) preventive care mandate. The ACA requires non-grandfathered health plans and health insurance issuers to cover a set of recommended preventive services without imposing cost-sharing requirements, such as deductibles.

In March 2023, the U.S. District Court for the Northern District of Texas [struck down](#) a key component of the ACA's preventive care mandate. More specifically, the District Court ruled that the preventive care coverage requirements based on an A or B rating by the U.S. Preventive Services Task Force on or after March 23, 2010, violate the U.S. Constitution.

The Biden administration appealed the District Court's decision to the 5th Circuit. The District Court's ruling was put on hold pending appeal, which means the ACA's preventive care mandate is currently in full effect. On March 4, 2024, a three-judge panel for the 5th Circuit, consisting of two judges appointed by former President Donald Trump and one President Joe Biden appointee, heard oral arguments. A ruling by the 5th Circuit is expected soon, likely followed by an appeal to the U.S. Supreme Court.

### Action Steps

If the 5th Circuit rules that a key component of the ACA's preventive care mandate is unconstitutional, employers will want to consult with their issuers or third-party administrators (TPAs) to assess the impact on their health coverage. The impact may not be immediate, as making significant midyear changes to plan coverage is unusual and typically triggers a 60-day advance notice requirement to participants. State laws regarding preventive care coverage requirements would also continue to apply to fully insured health plans. In addition, employers and issuers may decide to continue providing first-dollar coverage for the full range of preventive care services to help control future spending on preventable chronic conditions.

Provided to you by **McGohan Brabender**

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### Procedural Highlights

- In March 2023, a federal District Court struck down a key part of the ACA's preventive care coverage mandate.
- The Biden administration appealed this decision to the 5th Circuit Court of Appeals.
- The 5th Circuit heard oral arguments in the case on March 4, 2024.
- The 5th Circuit is expected to issue a decision soon.

### Current Status

It is uncertain whether the 5th Circuit will reverse or uphold the District Court's ruling. However, for now, non-grandfathered health plans and issuers must continue to cover, without cost sharing, the full range of preventive care services required by the ACA.



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