



Covering Tobacco Cessation as Preventive Service: Who is Making the Decisions?

With implementation of the Affordable Care Act (ACA), most private health insurance plans are required to cover tobacco cessation benefits as a preventive service. On May 2, 2014, the U.S. Departments of Health and Human Services, Labor and Treasury issued guidance, in the form of an [FAQ](#), on insurance coverage of tobacco cessation as a preventive service.ⁱ The guidance states that, to comply with ACA preventive services requirements, health plans should, for example, cover the following benefit:

1. Screening for tobacco use.
2. Two quit attempts per year, consisting of:
 - Four sessions of telephone, individual or group cessation counseling lasting at least 10 minutes each per quit attempt; and,
 - All medications approved by the FDA as safe and effective for smoking cessation, for 90 days per quit attempt, when prescribed by a health care provider.

The guidance also reiterates that plans must not include cost-sharing for these treatments, and that plans should not require prior authorization for any of these treatments.

This requirement applies to all private health insurance plans except those plans that are “grandfathered” into the ACA law. Grandfathered plans must have been in existence before March 23, 2010 and have not made any significant changes to coverage or structure since then. The [ACA website](#) has more information about grandfathered plans.ⁱⁱ

Outreach to Insurance Plans and Regulators

In the Centers for Disease Control and Prevention’s [Best Practices for Comprehensive Tobacco Control Programs](#),ⁱⁱⁱ state tobacco control programs are encouraged to build and maintain relationships with private health insurers, as well as monitor implementation and effects of provisions in the ACA that potentially expand cessation coverage.

The release of the guidance document above presents a great opportunity for state tobacco control programs and the wider public health community to reach out to health plans and regulators to build awareness of best practices for tobacco cessation coverage. The following chart is designed to assist members of the public health community in determining: 1) who makes the decisions about coverage in the plans that fall under this requirement, and 2) who regulates or oversees compliance with this requirement.

Please note:

- Small group plans and individual plans can be sold inside and outside State Health Insurance Marketplaces (“exchanges”). Requirements, decision-makers and regulators do not change whether a plan is sold inside or outside the Exchange.
- Any of the types of plans listed in the chart can be grandfathered.

See chart on following page.

i See Q5 in FAQ Part XIX: <http://www.dol.gov/ebsa/faqs/faq-aca19.html>

ii See “Grandfathered Health Insurance Plans”: <https://www.healthcare.gov/what-if-i-have-a-grandfathered-health-plan/>

iii See Section A, subsection III: http://www.cdc.gov/tobacco/stateandcommunity/best_practices/index.htm?s_cid=cs_3281

continued



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Plan Type	Definition	Who Makes Coverage Decisions?	Who Regulates?	Tobacco Surcharges?
Large Group Self-Insured	<ul style="list-style-type: none"> • Employer takes the financial risk of insuring the individual. • Employer has over 100 full-time employees. 	Employer makes all decisions.	U.S. Department of Labor	Any amount is allowed.
Large Group Fully-Insured	<ul style="list-style-type: none"> • Insurance company takes the financial risk of insuring the individual. • Employer has over 100 full-time employees. 	Insurance company decides what to cover, and what packages to offer employers. Employers decide whether to purchase insurance from the company.	State Regulators	Any amount is allowed.
Small Group	<ul style="list-style-type: none"> • Insurance company takes the financial risk of insuring the individual. • There are less than 100 full-time employees.* • Includes plans sold through state Exchanges. 	Insurance company decides what to cover, and what packages to offer employers. Employers decide whether to purchase insurance from the company.	State Regulators	<p>Up to 50 percent of the premium allowed, unless the state prohibits or limits this practice.**</p> <p>If a surcharge is applied, the plan must offer a wellness program to help the tobacco user quit and avoid the surcharge.</p>
Individual	<ul style="list-style-type: none"> • Insurance company takes the financial risk of insuring the individual. • Not part of a group. • Includes plans sold through state Exchanges. 	Insurance company makes all decisions.	State Regulators	Up to 50 percent of the premium allowed, unless the state prohibits or limits this practice.**

*There are certain requirements pertaining to plans that have under 25 employees, between 25 and 50 and between 50 and 100.

**The following states currently prohibit or limit tobacco surcharges: Arkansas, California, Colorado, Connecticut, District of Columbia, Kentucky, Massachusetts, New Jersey, New York, Rhode Island and Vermont