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POLICY INSTITUTE

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25 HIV & Hepatitis Organizations File *Amicus* Brief to Protect Preventive Services Coverage

Stress Dangers to Public Health If Lower Court Ruling Stands

Washington DC... Today, the **HIV+Hepatitis Policy Institute**, along with 24 other HIV and hepatitis organizations, filed an [amicus brief](#) in support of the U.S. government in *Braidwood Management v. Becerra*, the challenge to the ACA's preventive services coverage requirement before the U.S. Court of Appeals for the Fifth Circuit. The 25 non-profit organizations include national and state groups from around the country that carry out and promote access to HIV and hepatitis testing along with PrEP for the prevention of HIV.

“We must not allow a couple of individuals who want to discriminate against people who use PrEP and don't support insurance coverage of preventive services, such as HIV and hepatitis B and C testing, to destroy the public health of our country,” said **Carl Schmid, executive director of the HIV+Hepatitis Policy Institute**. “We filed this [amicus brief](#) to emphasize the important role testing for HIV and hepatitis plays in linking people to life-saving medications and, in the case of hepatitis C, curative treatment, along with the importance of helping people know if they have an infectious disease. Additionally, we take issue with the claim that PrEP is only for certain groups of people, to whom the plaintiffs object. PrEP is for anyone who may be at risk of HIV, and no employer knows or should know who those people are.”

The outcome of the appeal will determine the constitutionality of Congress' delegation of the determination of preventive services coverage to U.S. Preventive Services Task Force, and whether employers can be exempted on religious grounds from covering PrEP for HIV.

Richard Hughes IV, Epstein Becker Green lead counsel for the **HIV+Hepatitis Policy Institute**, summarized the brief's legal arguments, “We sought to emphasize that purchasing insurance that includes coverage of PrEP for HIV in no way burdens the ability of the plaintiffs to exercise their religion. In fact, we suggest to the court that granting exemptions for PrEP coverage would have far-reaching and absurd consequences for our society.”

In the brief, the groups write, “A wholesale invalidation of the coverage requirement for USPSTF's recommendations would strike a critical, unnecessary, and costly blow to the

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battle to end HIV, hepatitis, and other infectious diseases.” Observing that both HIV and hepatitis can impact anyone, without proper preventive services in place, the groups state, “Removing access to evidence-based preventive measures will have a devastating impact, not only on those living with HIV and hepatitis, but also for those at risk for acquiring HIV and hepatitis and the population at-large.”

In addition to supporting the U.S government’s claims, the brief argues that the requirement to cover PrEP does not violate the Religious Freedom Restoration Act (RFRA). Specifically, we write there are “two compelling interests—both economic and public health—in assuring coverage of HIV preventive services, including PrEP, for millions of Americans through health insurance, including employer-sponsored coverage.” Additionally, coverage of PrEP does not substantially burden the plaintiffs’ religious exercise. The brief continues, “The district court erred in accepting their claim that this requirement would force complicity in several behaviors, including “homosexual behavior, drug use, and sexual activity outside of marriage between one man and one woman. No research demonstrates that having access to PrEP causes individuals to engage in said behaviors.”

The brief continues, “Simply put, PrEP is for people who do not have HIV and do not wish to acquire HIV. PrEP will work in the same manner regardless of whether a person is in a heterosexual or same-sex relationship. HIV can be transmitted in a monogamous or non-monogamous relationship.”

The Fifth Circuit Court of Appeals has issued a briefing schedule for the case, which will continue through the fall. After that, the court may hear oral arguments before issuing a ruling. In the meantime, the court issued a stay that requires all preventive services, including PrEP, to be covered by insurers except for the individual plaintiffs. Depending on how the Appeals Court rules, the case may then be appealed to U.S. Supreme Court.

In addition to the **HIV+Hepatitis Policy Institute** the other groups signing on to the [amicus brief](#) are: AIDS Alabama, AIDS Foundation of Chicago, AIDS United, American Academy of HIV Medicine, Asian and Pacific Islander Wellness Center, Inc. dba San Francisco Community Health Center, Caring Ambassadors Program, Inc., Center for Health Law and Policy Innovation, Community Education Group, Fenway Community Health Center, Inc., Frannie Peabody Center, Gay Men’s Health Crisis, Inc., Georgia AIDS Coalition, Global Liver Institute, Hepatitis B Foundation, Hepatitis Education Project, Housing Works, Inc., Human Rights Campaign Foundation, Latino Commission on AIDS, National Coalition of STD Directors, National Minority AIDS Council, PrEP4All, Southern AIDS Coalition, Treatment Action Group, and Whitman-Walker Health.

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The **HIV+Hepatitis Policy Institute** is a national, non-profit organization whose mission is to promote quality and affordable healthcare for people living with or at risk of HIV, hepatitis, and other serious and chronic health conditions.