

**IMPROVING ACCESS TO PREVENTIVE  
SERVICES CONSUMER PROTECTIONS**

NAIC National Meeting

August 14, 2023

## Presenters

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**NAIC CONSUMER REPRESENTATIVES PREVENTIVE  
SERVICES REPORT: BACKGROUND AND  
CONTEXT**

# ACA PREVENTIVE SERVICES OVERVIEW

- The ACA requires non-grandfathered individual, group, and self-funded plans to cover the following preventive services **without cost sharing**:
  - USPSTF Grade A or B rated services
  - Routine vaccines for adults and children recommended by Advisory Committee on Immunization Practices (ACIP) and approved by CDC Director
  - Preventive services in guidelines supported by Health Resources and Services Administration (HRSA) via the Bright Futures for Children Program
  - Preventive services for women and supported in guidelines by HRSA via the Women's Preventive Services Initiative
- *Braidwood v. Becerra* is a legal challenge to all of the ACA preventive services requirements that regulators should monitor
  - BUT, ACA preventive services are still the law of the land
  - Many states have adopted state laws and regulations that include preventive services coverage and cost-sharing protections

# INCREASING ACCESS TO PREVENTIVE SERVICES HAS SIGNIFICANT HEALTH EQUITY IMPLICATIONS

Preventive Service	Communities Most Impacted	Benefits of the Intervention
Smoking cessation	Tobacco use is concentrated among low-income communities, including Native American and LGBTQ	Tobacco cessation interventions double the rate at which people who smoke quit smoking
Pre-exposure prophylaxis (PrEP) for the prevention of HIV	Black and African-American and Latino and Hispanic individuals comprise 40% and 29% of new HIV diagnoses, respectively	PrEP is 99% effective at preventing HIV from sex and 74% effective at preventing HIV from injection drug use
Colorectal cancer screening	Rates of late colorectal diagnosis are higher among rural populations, people with lower education and lower incomes, and people who are Black and African American, Latino and Hispanic, or Native American	When detected early, colorectal cancer can be treated with surgery, chemotherapy, radiation, and/or immunotherapy
Postpartum depression screening	Postpartum depression rates are higher based on low income, poor access to education/healthcare, adolescent age, Black and African-American race, and recent immigrant status	Depression treatment for parents with postpartum depression has health and economic benefits for the parent and children

COMPLIANCE WITH THESE COVERAGE AND COST SHARING REQUIREMENTS HAS BEEN A CHALLENGE

# Many Americans still paying high costs months after insurers were ordered to cover HIV preventive care

By Sarah Varney, Kaiser Health News  
Published 6:19 AM EST, Mon February 28, 2022

The Boston Globe

## Despite federal rules, HIV prevention drug still comes with costs

The billing errors have forced some to stop taking the medicine, putting them at heightened risk of contracting the virus.

By [Jessica Bartlett](#) Globe Staff. Updated January 8, 2023, 4:58 p.m.



The New York Times

## Preventing Sickness, With Plenty of Red Tape

# NAIC CONSUMER REPRESENTATIVE REPORT: FINDINGS

## THE REPORT METHODOLOGY

- Research included:
  - Review of policy analyses and studies on utilization, cost, and health outcomes
  - Informant interviews with patient groups representing constituents impacted by each service or condition; plan and issuer representatives; providers and provider associations; state regulators; and consumers impacted by access challenges



## THE REPORT METHODOLOGY (CTD)

- Analysis of a representative sample of Marketplace plan preventive services and payer guidance documents, including:
  - Consumer-facing preventive services coverage descriptions (i.e., preventive services brochures or fact sheets) on publicly available plan websites
  - 2023 plan formulary
  - Most recent payer guidance for each of the four focus preventive services

# I) CONSUMER FACING DOCUMENTS LACK COMPREHENSIVE PREVENTIVE SERVICES DESCRIPTIONS



- Most plans assessed did not describe every component of the intervention, especially for services that involved both a medical and pharmacy benefit

# I) CONSUMER FACING DOCUMENTS LACK COMPREHENSIVE PREVENTIVE SERVICES DESCRIPTIONS (CTD)

- **Example**: smoking cessation services often described the smoking cessation medications that were covered, but did not describe the counseling components of the intervention

## 2) PLAN FORMULARIES DID NOT ALWAYS DESCRIBE \$0 COST SHARING PREVENTIVE MEDICATIONS CLEARLY AND ACCURATELY



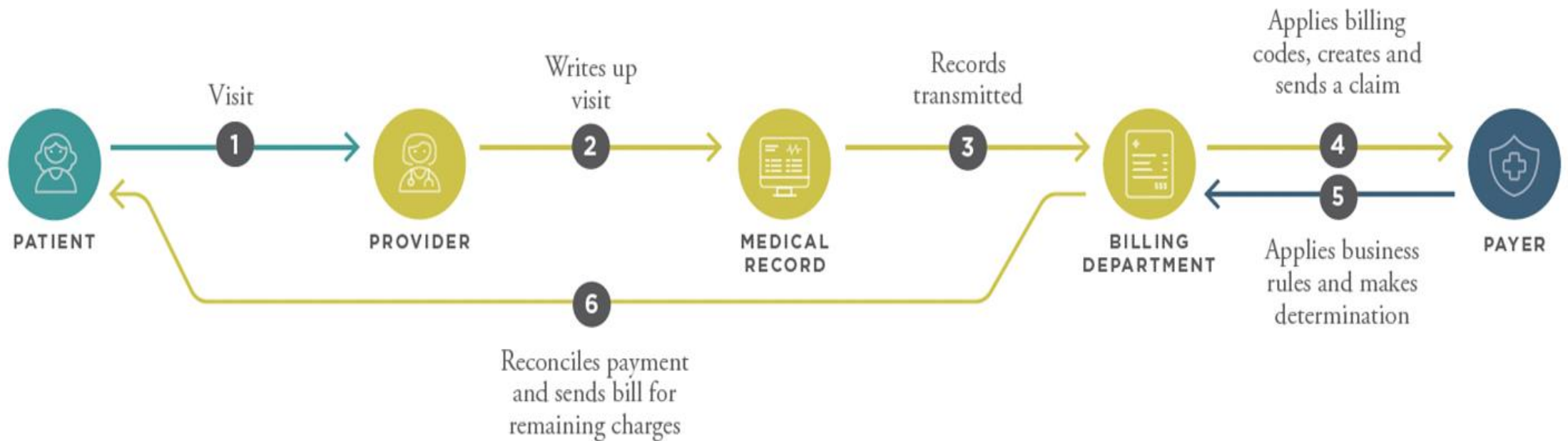
- Plans that were easiest to navigate included separate preventive services formularies, with medications listed by intervention
- It was more difficult to assess \$0 coverage of preventive services medications when the medications were listed in the main formulary by therapeutic class

## 2) PLAN FORMULARIES DID NOT ALWAYS DESCRIBE \$0 COST SHARING PREVENTIVE MEDICATIONS CLEARLY AND ACCURATELY

- **Example**: there are multiple FDA-approved PrEP medications, but plans did not clearly specify which ones were covered without cost sharing and how consumers who needed access to one regimen over another could access that regimen without cost sharing

### 3) PAYER GUIDANCE DOCUMENTS THAT INFORM CLAIMS ADJUDICATION POLICIES WERE OFTEN INCOMPLETE

#### The Role of Claims Adjudication in \$0 Preventive Services



### 3) PAYER GUIDANCE DOCUMENTS THAT INFORM CLAIMS ADJUDICATION POLICIES WERE OFTEN INCOMPLETE (CTD)



- Most plans did not have publicly available comprehensive payer guidance for each of the four services reviewed
- Common gaps in the payer guidance reviewed included:
  - lack of reference to nationally recognized clinical standards
  - lack of specificity with regard to medical management, including intervals for the service
  - missing core components of the intervention, especially when the intervention included both a medical and pharmacy benefit

### 3) PAYER GUIDANCE DOCUMENTS THAT INFORM CLAIMS ADJUDICATION POLICIES WERE OFTEN INCOMPLETE (CTD)

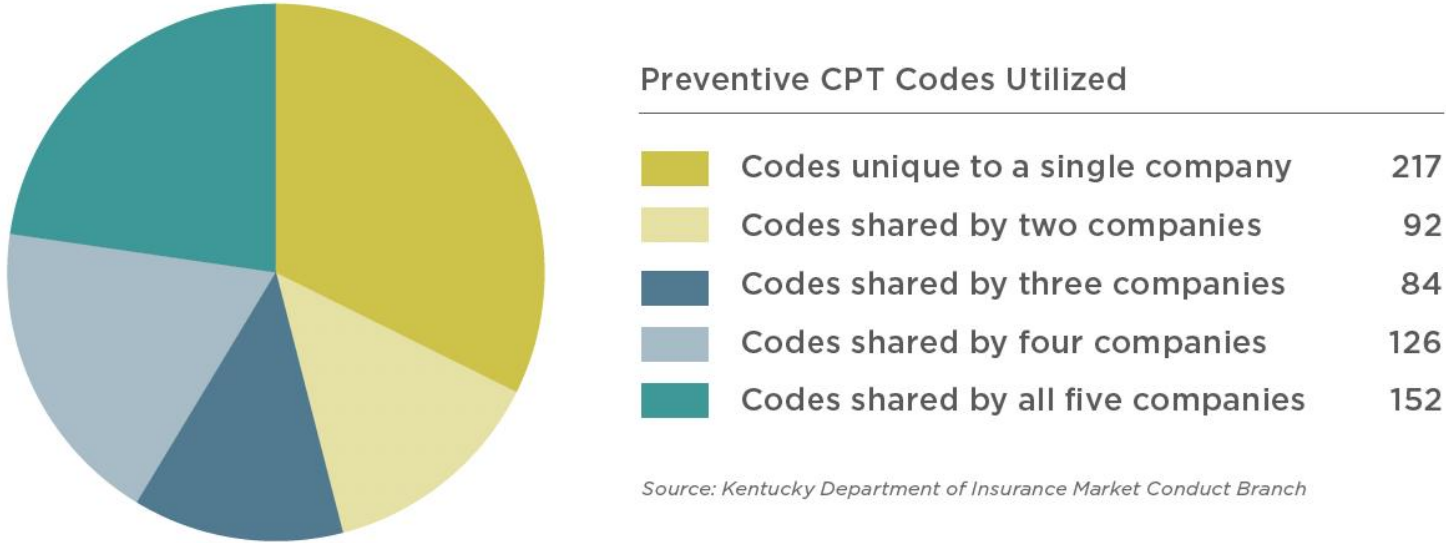
- **Example**: guidance for postpartum depression screening was missing completely in half the plans reviewed
- **Example**: PrEP includes a number of regular lab services in addition to medication, but guidance rarely specified the specific labs included or the intervals at which they had to be covered without cost sharing
- **Example**: colonoscopies included the most specificity in terms determining eligibility, the components of the intervention, and coverage considerations for providers



# WHY PAYER GUIDANCE MATTERS

*Lack of specific coverage policies that are well articulated to providers leads to arbitrary coverage decisions*

**FIGURE 9**  
**Kentucky CPT Code Variation for Preventive Services**



*Source: Kentucky Department of Insurance Market Conduct Branch*

# RECOMMENDATIONS FOR REGULATORS

## I) UTILIZE DATA CALLS AND MARKET CONDUCT EXAMS TO ASSESS COMPLIANCE

- Both Kentucky and Washington used data calls and market conduct exams to evaluate compliance with preventive services coverage and cost-sharing protections
- Data analysis MUST include claims data
- State departments of insurance must also invest in internal capacity to review and analyze claims data

## 2) ENSURE CONTINUED PREVENTIVE PROTECTIONS W/ STATE LEGISLATIVE AND REGULATORY ACTION

- Even before the Braidwood litigation, many states have enshrined ACA preventive services coverage and cost-sharing protections into state law
- State regulators are also working with plans in the state to ensure continued \$0 cost-sharing plan designs regardless of the Braidwood outcome

### 3) ENFORCE APPEALS PROTECTIONS FOR MIS-ADJUDICATED OR DENIED PREVENTIVE SERVICES CLAIMS

- Appealing mis-adjudicated claims (e.g., preventive services approved as diagnostic instead of preventive) can be confusing and time consuming for consumers and providers
- Consumers are often left in the middle of disputes between providers (or labs) and the plan

#### 4) ENSURE THAT QUALIFIED HEALTH PLAN (QHP) CERTIFICATION ASSESSES FORMULARIES AND OTHER PLAN DOCUMENTS

- QHP review must ensure that preventive services medications are listed accurately on plan formularies
- Review must also include assessment of plan documents to ensure that coverage policies are compliant with federal and state law as well as up-to-date clinical standards

## 5) HOLD PLANS ACCOUNTABLE FOR EDUCATING CONSUMERS AND PROVIDERS ON PREVENTIVE SERVICES REQUIREMENTS

- Consumer and provider education on preventive services is a persistent challenge and contributes to pronounced access gaps
- Plans should be encouraged to work more proactively with both covered consumers and providers in plan networks to increase awareness and uptake of preventive services

## 6) ESTABLISH UNIFORM BILLING AND CODING STANDARDS

- Regulators – and the NAIC – should consider ways to support uniform billing and coding standards that would eliminate the variability in coverage standards across plans
- The standardization that Centers for Medicare and Medicaid Services (CMS) guidance for Medicare claims processing is an example of how this can be done



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