



COMMISSIONER OF SECURITIES AND INSURANCE

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Commissioner

Office of the
Montana State Auditor

ADVISORY MEMORANDUM

To: ALL GROUP HEALTH PLANS AND HEALTH INSURANCE ISSUERS AND ALL INTERESTED PERSONS

From: TROY DOWNING
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Date: March 11, 2022

Advisory Memorandum and Guidance Regarding Coverage of Preventative Colonoscopies Without Cost Sharing

This memorandum concerns recent guidance by the United States Preventative Task Force (USPTF) and by the Tri-Agencies (Department of Labor, Health and Human Service, and Treasury) that group health plans and health insurance issuers offering group or individual health insurance coverage must cover follow-up colonoscopies without cost sharing after abnormal direct visualization or stool screening tests.

Background

According to Section 2713 of the Public Health Service Act and its implementing regulations, evidence-based services with a rating of A or B by the USPTF must be covered without cost sharing. 29 CFR Section 2590.715-2713 (a)(1). In May 2021, the USPSTF updated its recommendation for colorectal cancer screening. The USPSTF continues to recommend with an "A" rating screening for colorectal cancer in all adults aged 50 to 75 years and extended its recommendation with a "B" rating to adults aged 45 to 49 years. The USPTF's Final Recommendation Statement provides that follow-up colonoscopy is required after abnormal stool-based screening tests and abnormal findings on flexible sigmoidoscopy or CT

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colonography.¹ On January 10, 2022, adopting the USPSTF's recommendation, the Tri-Agencies issued a new guidance through the Department of Labor's Employee Benefits Security Administration, stating that follow-up colonoscopies after such abnormal screening tests must be covered without cost sharing.²

Guidance

According to recent guidance by the Tri-Agencies, follow-up colonoscopies after abnormal stool-based screening or direct visualization using flexible sigmoidoscopy or CT colonography are required to be covered without cost sharing. These cost sharing restrictions apply to office visits if the visits are billed separately or, if not billed separately, when the primary purpose of the office visit concerns colonoscopy. 29 CFR Section 2590.715-2713 (2) (i thru iv). However, cost sharing is not precluded when a plan or issuer requires use of in-network providers, and the service is delivered by an out-of-network provider. 29 CFR Section 2590.715-2713 (3) (i) and (ii).

This guidance is effective beginning on or after the date that is one year after the date the USPSTF's recommendation was issued. Because the USPSTF's recommendation is considered to have been issued as of May 31, 2021, plans and issuers are required to provide coverage without cost sharing for plan or policy years beginning on or after May 31, 2022.³

This advisory memorandum is informational only and does not enlarge, delimit, or otherwise modify any requirements of applicable law or in any way limit the authority of CSI under applicable law. CSI encourages interested persons to consult with independent legal counsel for guidance on the application of law to any particular circumstances.

¹ See <https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/colorectal-cancer-screening> (Practice Considerations).

² See <https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/faqs/aca-part-51.pdf> (pages 11-12, Q6 and Q7).

³ See <https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/faqs/aca-part-51.pdf> (page 12, Q8).