

No. 24-316

---

---

**In the Supreme Court of the United States**

ROBERT F. KENNEDY, JR.,  
SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL.,  
*Petitioners,*

v.

BRAIDWOOD MANAGEMENT, INC., ET AL.,  
*Respondents.*

---

ON WRIT OF CERTIORARI TO THE UNITED STATES  
COURT OF APPEALS FOR THE FIFTH CIRCUIT

---

**BRIEF OF MEMBERS OF THE CHRONIC  
ILLNESS AND DISABILITY PARTNERSHIP  
AS *AMICI CURIAE* IN SUPPORT OF  
PETITIONERS AND REVERSAL**

---

---

|                        |                          |
|------------------------|--------------------------|
| Carmel Shachar         | Benjamin G. Shatz*       |
| Elizabeth Kaplan       | <i>Counsel of Record</i> |
| Undaleeb Dairkee       | Michael Kolber           |
| CENTER FOR HEALTH LAW  | Shannon Gonick           |
| AND POLICY INNOVATION  | MANATT, PHELPS &         |
| AT HARVARD LAW SCHOOL  | PHILLIPS, LLP            |
| 1607 Massachusetts Ave | 2049 Century Park East,  |
| 4th Floor              | Suite 1700               |
| Cambridge, MA 02138    | Los Angeles, CA 90067    |
|                        | BShatz@manatt.com        |
|                        | (310) 312-4000           |

**TABLE OF CONTENTS**

INTEREST OF AMICI CURIAE..... 1

SUMMARY OF ARGUMENT ..... 6

ARGUMENT: THE PREVENTIVE CARE  
COVERAGE REQUIREMENT  
PROMOTES LONG-TERM  
INDIVIDUAL AND SYSTEMWIDE  
HEALTH BY HELPING AMERICANS  
AVOID CHRONIC DISEASE ..... 7

I. The Preventive Care Coverage  
Requirement Is Critical for Americans  
to Access Services That Keep Them  
Healthy ..... 8

A. The Preventive Care Coverage  
Requirement Aligns Access to  
Prevention Across the  
Fragmented Health Coverage  
System to Help Americans Stay  
Healthier ..... 8

B. The Preventive Care Coverage  
Requirement Is Fundamental to  
This System ..... 15

II. No-Cost Coverage of Preventive  
Services Is an Essential Tool in the  
U.S. Response to the Growing Burden  
of Chronic Conditions..... 19

**TABLE OF CONTENTS  
(CONTINUED)**

|    |   |    |
|----|---|----|
| A. | Over the Long Term, Preventive Services Help Individuals Stay Healthier and Mitigate the Impact of Chronic Diseases, Creating a More Sustainable American Healthcare System ..... | 20 |
| B. | Preventive Services Are Critical to Diagnosis and Prevention of Many Chronic Disease Types.....   | 28 |
| 1. | Diabetes.....   | 28 |
| 2. | Cancer Screenings .....   | 30 |
| 3. | Infectious Diseases Screenings and Prevention .....   | 34 |
|    | CONCLUSION.....   | 39 |

## TABLE OF AUTHORITIES

### STATUTES

|   |                                 |
|---|---------------------------------|
| 26 U.S.C. § 36B .....                           | 11                              |
| 29 U.S.C.                                       |                                 |
| § 1001 et seq.....                              | 14, 15                          |
| § 1144 .....                                    | 14                              |
| 42 U.S.C.                                       |                                 |
| § 300gg-3 .....                                 | 11                              |
| § 300gg-13 .....                                | 6, 11, 12                       |
| § 300gg-13(a)(1) .....                          | 39                              |
| §§ 300gg, 300gg-1.....                          | 11                              |
| § 1395x(ddd).....                               | 12                              |
| § 1396a(a)(10)(A)(ii).....                      | 11                              |
| § 1396a(k)(1) .....                             | 12                              |
| § 1396d(b)(5) .....                             | 13                              |
| § 18001 et seq.....                             | 10-14, 16-18, 20-21, 26, 30, 34 |
| Pub. L. No. 111-148, 124 Stat. 119 (2010) ..... | 3, 9, 10                        |

### OTHER AUTHORITIES

|   |    |
|---|----|
| <i>2024 Employer Health Benefits Survey</i> ,<br>KFF (2024), <a href="https://www.kff.org/health-costs/report/2024-employer-health-benefits-survey/">https://www.kff.org/health-costs/report/2024-employer-health-benefits-survey/</a> [ <a href="https://perma.cc/GQP8-MWNH">https://perma.cc/GQP8-MWNH</a> ].....     | 15 |
| A. David Paltiel et al., <i>Increased HIV<br/>           Transmissions with Reduced Insurance<br/>           Coverage for HIV Preexposure<br/>           Prophylaxis: Potential Consequences of<br/>           Braidwood Management v. Becerra</i> , <i>Open<br/>           F. Infectious Diseases</i> , Mar. 2023..... | 38 |

**TABLE OF AUTHORITIES  
(CONTINUED)**

|  |    |
|--|----|
| <i>About HIV</i> , Ctrs. for Disease Control & Prevention (Jan. 14, 2025),<br><a href="https://www.cdc.gov/hiv/about/index.html">https://www.cdc.gov/hiv/about/index.html</a><br>[ <a href="https://perma.cc/SUX5-Z5KY">https://perma.cc/SUX5-Z5KY</a> ].....  | 38 |
| Akram T. Kharroubi & Hisham M. Darwish,<br><i>Diabetes Mellitus: The Epidemic of the Century</i> , 6 <i>World J. Diabetes</i> 850 (2015).....  | 29 |
| Allison R. Webel, et. al., <i>A Review of Chronic Comorbidities in Adults Living with HIV: State of the Science</i> , 32 <i>J. Ass'n Nurses AIDS Care</i> 322 (2021).....  | 39 |
| <i>American Community Survey Tables for Health Insurance Coverage, HI-05: Health Insurance Coverage Status and Type of Coverage by State and Age for All People</i> , Census Bureau,<br><a href="https://www.census.gov/data/tables/time-series/demo/health-insurance/acs-hi.html">https://www.census.gov/data/tables/time-series/demo/health-insurance/acs-hi.html</a><br>[ <a href="https://perma.cc/5MHM-7R7E">https://perma.cc/5MHM-7R7E</a> ] ..... | 10 |
| Andrew J. Foy & John M. Mandrola,<br><i>Heavy Heart: The Economic Burden of Heart Disease in the United States Now and in the Future</i> , 45 <i>Primary Care: Clinics Off. Prac.</i> 17 (2018).....   | 26 |

**TABLE OF AUTHORITIES  
(CONTINUED)**

|   |        |
|---|--------|
| Anu Dairkee, <i>USPSTF A &amp; B<br/>Recommendations as of January 2025</i> ,<br>Ctr. for Health L. & Pol’y Innovation,<br><a href="https://chlpi.org/wp-content/uploads/2025/01/USPSTF-A-B-Recommendations-V3.pdf">https://chlpi.org/wp-content/uploads/2025/01/USPSTF-A-B-Recommendations-V3.pdf</a><br>[ <a href="https://perma.cc/J4GM-EKTD">https://perma.cc/J4GM-EKTD</a> ] .....     | 26, 34 |
| Brief for Blue Cross Blue Shield Association<br>as Amicus Curiae Supporting Appellants<br>and Vacatur, <i>Braidwood Mgmt. v.<br/>Becerra</i> , 104 F.4th 930 (5th Cir. 2024)<br>(No. 23-10326).....   | 18     |
| <i>Cervical Cancer Prognosis and Survival<br/>Rates</i> , Nat’l Cancer Inst. (Apr. 27, 2023),<br><a href="https://www.cancer.gov/types/cervical/survival">https://www.cancer.gov/types/cervical/survival</a> [ <a href="https://perma.cc/3393-J3HM">https://perma.cc/3393-J3HM</a> ].....   | 32     |
| <i>Clinical and Equity Implications of<br/>Braidwood v. Becerra</i> , Ctr. for Value-<br>Based Ins. Design (June 2, 2023),<br><a href="https://vbidcenter.org/clinical-and-equity-implications-of-braidwood-v-becerra/">https://vbidcenter.org/clinical-and-equity-implications-of-braidwood-v-becerra/</a><br>[ <a href="https://perma.cc/H35U-5BAZ">https://perma.cc/H35U-5BAZ</a> ]..... | 16     |
| Dhruv Khullar & Dave A. Chokshi, <i>Health,<br/>Income, &amp; Poverty: Where We Are &amp; What<br/>Could Help</i> , Health Affs: Health Pol’y<br>Brief (Oct. 4, 2018).....  | 28     |

**TABLE OF AUTHORITIES  
(CONTINUED)**

|  |    |
|--|----|
| <p><i>Draft Recommendation Statement: Cervical Cancer: Screening</i>, U.S. Preventive Servs. Task Force (Dec. 10, 2024),<br/> <a href="https://www.uspreventiveservicestaskforce.org/uspstf/draft-recommendation/cervical-cancer-screening-adults-adolescents">https://www.uspreventiveservicestaskforce.org/uspstf/draft-recommendation/cervical-cancer-screening-adults-adolescents</a><br/> <a href="https://perma.cc/4X8R-CGD6">[https://perma.cc/4X8R-CGD6]</a> .....</p>   | 23 |
| <p><i>Earlier Cancer Detection Improves Quality of Life and Patient Outcomes</i>, Avalere (July 29, 2021),<br/> <a href="https://avalere.com/insights/earlier-cancer-detection-improves-quality-of-life-and-patient-outcomes">https://avalere.com/insights/earlier-cancer-detection-improves-quality-of-life-and-patient-outcomes</a><br/> <a href="https://perma.cc/KEB8-8Z5Y">[https://perma.cc/KEB8-8Z5Y]</a> .....</p>   | 31 |
| <p><i>Early Blood Glucose Control for People with Type 2 Diabetes Is Crucial for Reducing Complications and Prolonging Life</i>, Univ. of Oxford: News (May 20, 2024),<br/> <a href="https://www.ox.ac.uk/news/2024-05-20-early-blood-glucose-control-people-type-2-diabetes-crucial-reducing-complications">https://www.ox.ac.uk/news/2024-05-20-early-blood-glucose-control-people-type-2-diabetes-crucial-reducing-complications</a><br/> <a href="https://perma.cc/4HC4-BVME">[https://perma.cc/4HC4-BVME]</a> .....</p> | 30 |
| <p><i>Early Cancer Diagnosis Saves Lives, Cuts Treatment Costs</i>, World Health Org., (Feb. 3, 2017),<br/> <a href="https://www.who.int/news/item/03-02-2017-early-cancer-diagnosis-saves-lives-cuts-treatment-costs">https://www.who.int/news/item/03-02-2017-early-cancer-diagnosis-saves-lives-cuts-treatment-costs</a><br/> <a href="https://perma.cc/4DWC-BAC4">[https://perma.cc/4DWC-BAC4]</a> .....</p>   | 33 |

**TABLE OF AUTHORITIES  
(CONTINUED)**

|   |        |
|---|--------|
| Elizabeth Y. McCuskey, <i>State Cost-Control Reforms and ERISA Preemption</i> , The Commonwealth Fund (May 16, 2022), <a href="https://www.commonwealthfund.org/publications/issue-briefs/2022/may/state-cost-control-reforms-erisa-preemption">https://www.commonwealthfund.org/publications/issue-briefs/2022/may/state-cost-control-reforms-erisa-preemption</a> [ <a href="https://perma.cc/MWJ7-K9AB">https://perma.cc/MWJ7-K9AB</a> ] ..... | 15     |
| Eric W. Hall et al., <i>Estimating Hepatitis C Prevalence in the United States, 2017-2020</i> , 81 <i>Hepatology</i> 625 (2025) .....   | 35     |
| Exec. Order No. 14212,<br>90 Fed. Reg. 9833 (Feb. 19, 2025) .....   | 6, 27  |
| <i>Fast Facts: Health and Economic Costs of Chronic Conditions</i> , Ctrs. for Disease Control & Prevention (July 12, 2024), <a href="https://www.cdc.gov/chronic-disease/data-research/facts-stats/index.html">https://www.cdc.gov/chronic-disease/data-research/facts-stats/index.html</a> [ <a href="https://perma.cc/5GS2-8SXP">https://perma.cc/5GS2-8SXP</a> ] .....  | 20, 27 |
| <i>Fast Stats: Diabetes</i> , Nat'l Ctr. for Health Stats., Ctrs. for Disease Control & Prevention (Apr. 27, 2024), <a href="https://www.cdc.gov/nchs/fastats/diabetes.htm">https://www.cdc.gov/nchs/fastats/diabetes.htm</a> [ <a href="https://perma.cc/64UK-DDCQ">https://perma.cc/64UK-DDCQ</a> ] .....   | 20     |



**TABLE OF AUTHORITIES  
(CONTINUED)**

|  |    |
|--|----|
| <p><i>Final Recommendation Statement, Anxiety Disorders in Adults: Screening</i>, U.S. Preventive Servs. Task Force (June 20, 2023), <a href="https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/anxiety-adults-screening">https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/anxiety-adults-screening</a> [<a href="https://perma.cc/T5HR-377U">https://perma.cc/T5HR-377U</a>].....</p>  | 25 |
| <p><i>Final Recommendation Statement, Anxiety in Children and Adolescents: Screening</i>, U.S. Preventive Servs. Task Force (Oct. 11, 2022), <a href="https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/screening-anxiety-children-adolescents">https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/screening-anxiety-children-adolescents</a> [<a href="https://perma.cc/M4HS-4C94">https://perma.cc/M4HS-4C94</a>].....</p>  | 25 |
| <p><i>Final Recommendation Statement, BRCA-Related Cancer: Risk Assessment, Genetic Counseling, and Genetic Testing</i>, U.S. Preventive Servs. Task Force (Aug. 20, 2019), <a href="https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/brca-related-cancer-risk-assessment-genetic-counseling-and-genetic-testing">https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/brca-related-cancer-risk-assessment-genetic-counseling-and-genetic-testing</a> [<a href="https://perma.cc/EN3L-839Y">https://perma.cc/EN3L-839Y</a>].....</p> | 24 |

**TABLE OF AUTHORITIES  
(CONTINUED)**

|   |        |
|---|--------|
| <p><i>Final Recommendation Statement, Breast Cancer: Screening</i>, U.S. Preventive Servs. Task Force (Apr. 30, 2024),<br/> <a href="https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/breast-cancer-screening">https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/breast-cancer-screening</a> [<a href="https://perma.cc/N722-ET53">https://perma.cc/N722-ET53</a>] .....</p>   | 23     |
| <p><i>Final Recommendation Statement, Cervical Cancer: Screening</i>, U.S. Preventive Servs. Task Force (Aug. 21, 2018),<br/> <a href="https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/cervical-cancer-screening">https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/cervical-cancer-screening</a> [<a href="https://perma.cc/DSW5-JEZ3">https://perma.cc/DSW5-JEZ3</a>] .....</p>   | 23     |
| <p><i>Final Recommendation Statement, Colorectal Cancer: Screening</i>, U.S. Preventive Servs. Task Force (May 18, 2021),<br/> <a href="https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/colorectal-cancer-screening">https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/colorectal-cancer-screening</a> [<a href="https://perma.cc/N4YB-2J6H">https://perma.cc/N4YB-2J6H</a>] .....</p>  | 23, 31 |
| <p><i>Final Recommendation Statement, Depression and Suicide Risk in Adults: Screening</i>, U.S. Preventive Servs. Task Force (June 20, 2023),<br/> <a href="https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/screening-depression-suicide-risk-adults">https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/screening-depression-suicide-risk-adults</a> [<a href="https://perma.cc/KPQ2-JMNT">https://perma.cc/KPQ2-JMNT</a>] .....</p> | 25     |

**TABLE OF AUTHORITIES  
(CONTINUED)**

|   |    |
|---|----|
| <p><i>Final Recommendation Statement,<br/>Depression and Suicide Risk in Children<br/>and Adolescents: Screening,<br/>U.S. Preventive Servs. Task Force<br/>(Oct. 11, 2022),<br/><a href="https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/screening-depression-suicide-risk-children-adolescents">https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/screening-depression-suicide-risk-children-adolescents</a> [<a href="https://perma.cc/PE9P-3GZD">https://perma.cc/PE9P-3GZD</a>]</i>.....</p> | 25 |
| <p><i>Final Recommendation Statement, Hepatitis<br/>C Virus Infection in Adolescents and<br/>Adults: Screening, U.S. Preventive Servs.<br/>Task Force (Mar. 2, 2020),<br/><a href="https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/hepatitis-c-screening">https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/hepatitis-c-screening</a> [<a href="https://perma.cc/W4KEDTNN">https://perma.cc/W4KEDTNN</a>]</i>.....</p>  | 36 |
| <p><i>Final Recommendation Statement,<br/>Hypertension in Adults: Screening, U.S.<br/>Preventive Servs. Task Force (Apr. 27,<br/>2021),<br/><a href="https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/hypertension-in-adults-screening">https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/hypertension-in-adults-screening</a><br/>[<a href="https://perma.cc/45UH-NG2E">https://perma.cc/45UH-NG2E</a>]</i>.....</p>  | 22 |

**TABLE OF AUTHORITIES  
(CONTINUED)**

|   |        |
|---|--------|
| <p><i>Final Recommendation Statement,<br/>Prediabetes and Type 2 Diabetes:<br/>Screening</i>, U.S. Preventive Servs. Task<br/>Force (Aug. 24, 2021),<br/><a href="https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/screening-for-prediabetes-and-type-2-diabetes">https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/screening-for-prediabetes-and-type-2-diabetes</a><br/>[<a href="https://perma.cc/Y6UH-V4TS">https://perma.cc/Y6UH-V4TS</a>] .....</p>  | 22, 29 |
| <p><i>Final Recommendation Statement,<br/>Prevention of Acquisition of HIV:<br/>Preexposure Prophylaxis</i>, U.S. Preventive<br/>Servs. Task Force (Aug. 22, 2023),<br/><a href="https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/prevention-of-human-immunodeficiency-virus-hiv-infection-pre-exposure-prophylaxis">https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/prevention-of-human-immunodeficiency-virus-hiv-infection-pre-exposure-prophylaxis</a><br/>[<a href="https://perma.cc/BD9B-2L6F">https://perma.cc/BD9B-2L6F</a>] .....</p> | 24, 37 |
| <p><i>Final Recommendation Statement, Lung<br/>Cancer: Screening</i>, U.S. Preventive Servs.<br/>Task Force (Mar. 9, 2021),<br/><a href="https://www.uspreventiveservicestaskforce.org/uspstf/document/RecommendationStatementFinal/lung-cancer-screening">https://www.uspreventiveservicestaskforce.org/uspstf/document/RecommendationStatementFinal/lung-cancer-screening</a><br/>[<a href="https://perma.cc/74BC-VTWW">https://perma.cc/74BC-VTWW</a>] .....</p>   | 24     |

**TABLE OF AUTHORITIES  
(CONTINUED)**

|  |    |
|--|----|
| <p><i>Final Recommendation Statement, Tobacco Smoking in Adults, Including Pregnant Persons: Interventions</i>, U.S. Preventive Servs. Task Force (Jan. 19, 2021),<br/> <a href="https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/tobacco-use-in-adults-and-pregnant-women-counseling-and-interventions">https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/tobacco-use-in-adults-and-pregnant-women-counseling-and-interventions</a><br/> <a href="https://perma.cc/D654-G2S3">[https://perma.cc/D654-G2S3]</a> .....</p> | 21 |
| <p><i>Final Recommendation Statement, Weight Loss to Prevent Obesity-Related Morbidity and Mortality in Adults: Behavioral Interventions</i>, U.S. Preventive Servs. Task Force (Sept. 18, 2018),<br/> <a href="https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/obesity-in-adults-interventions">https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/obesity-in-adults-interventions</a><br/> <a href="https://perma.cc/EAT3-54QZ">[https://perma.cc/EAT3-54QZ]</a>.....</p>   | 30 |
| <p><i>Financial Burden of Cancer Care, Cancer Trends Progress Report</i>, Nat’l Cancer Inst. (Mar. 2024),<br/> <a href="https://progressreport.cancer.gov/after/economic_burden">https://progressreport.cancer.gov/after/economic_burden</a> [<a href="https://perma.cc/EL3U-ZLWS">https://perma.cc/EL3U-ZLWS</a>] .....</p>   | 33 |

**TABLE OF AUTHORITIES  
(CONTINUED)**

|   |    |
|---|----|
| Francis Collins, <i>We Are Squandering One of the Most Important Medical Advances of the 21st Century</i> , The N.Y. Times (Nov. 28, 2023),<br><a href="https://www.nytimes.com/2023/11/28/opinion/hepatitis-c-eliminate.html">https://www.nytimes.com/2023/11/28/opinion/hepatitis-c-eliminate.html</a><br>[ <a href="https://perma.cc/D2GM-QNYV">https://perma.cc/D2GM-QNYV</a> ] .....                     | 36 |
| Gabriel A. Benavidez et al., <i>Chronic Disease Prevalence in the US: Sociodemographic and Geographic Variations by Zip Code Tabulation Area</i> , 21 <i>Prev. Chronic Disease</i> , Feb. 29, 2024 .....  | 27 |
| Geetesh Solanki et al., <i>The Direct and Indirect Effects of Cost-Sharing on the Use of Preventive Services</i> , 34 <i>Health Servs. Rsch.</i> 1331 (2000).....   | 16 |
| H.R. Rep. No. 111-299 (2009) .....  | 26 |
| <i>Health and Economic Benefits of Breast Cancer Interventions</i> , Nat'l Ctr. for Chronic Disease Prevention & Health Promotion, Ctrs. for Disease Control & Prevention (July 11, 2024),<br><a href="https://www.cdc.gov/nccdphp/priorities/breast-cancer.html">https://www.cdc.gov/nccdphp/priorities/breast-cancer.html</a> [ <a href="https://perma.cc/Q4UX-RW2Q">https://perma.cc/Q4UX-RW2Q</a> ] ..... | 32 |

**TABLE OF AUTHORITIES  
(CONTINUED)**

|   |        |
|---|--------|
| <p><i>Health and Economic Benefits of Colorectal Cancer Interventions</i>, Nat'l Ctr. for Chronic Disease Prevention &amp; Health Promotion, Ctrs. for Disease Control &amp; Prevention (Oct. 16, 2024),<br/> <a href="https://www.cdc.gov/nccdphp/priorities/colorectal-cancer.html">https://www.cdc.gov/nccdphp/priorities/colorectal-cancer.html</a><br/> <a href="https://perma.cc/N8ZX-7WEP">[https://perma.cc/N8ZX-7WEP]</a> .....</p>  | 31     |
| <p><i>Health and Economic Benefits of Diabetes Interventions</i>, Nat'l Ctr. for Chronic Disease Prevention &amp; Health Promotion, Ctrs. for Disease Control &amp; Prevention (Jan. 30, 2025),<br/> <a href="https://www.cdc.gov/nccdphp/priorities/diabetes-interventions.html">https://www.cdc.gov/nccdphp/priorities/diabetes-interventions.html</a><br/> <a href="https://perma.cc/MC2L-EB2K">[https://perma.cc/MC2L-EB2K]</a> .....</p> | 28, 30 |
| <p><i>Health Insurance Coverage of the Total Population</i>, KFF,<br/> <a href="https://www.kff.org/other/state-indicator/total-population">https://www.kff.org/other/state-indicator/total-population</a><br/> <a href="https://perma.cc/9UVT-BSL4">[https://perma.cc/9UVT-BSL4]</a> (last visited Feb. 11, 2025).....</p>   | 15     |
| <p><i>Hepatitis C</i>, Nat'l Inst. of Diabetes &amp; Digestive &amp; Kidney Diseases, Nat'l Insts. of Health (Mar. 2020),<br/> <a href="https://www.niddk.nih.gov/health-information/liver-disease/viral-hepatitis/hepatitis-c">https://www.niddk.nih.gov/health-information/liver-disease/viral-hepatitis/hepatitis-c</a><br/> <a href="https://perma.cc/6MEU-BC7X">[https://perma.cc/6MEU-BC7X]</a> .....</p>                               | 35     |

**TABLE OF AUTHORITIES  
(CONTINUED)**

|  |    |
|--|----|
| <p><i>Hepatitis C Basics</i>, Ctrs. for Disease Prevention &amp; Control (Jan. 31, 2025), <a href="https://www.cdc.gov/hepatitis-c/about/index.html">https://www.cdc.gov/hepatitis-c/about/index.html</a> [https://perma.cc/4XAJ-3WC9].....</p>  | 35 |
| <p><i>The HIV/AIDS Epidemic in the United States: The Basics</i>, KFF (Aug. 16, 2024) <a href="https://www.kff.org/hivaids/fact-sheet/the-hiv-aids-epidemic-in-the-united-states-the-basics/">https://www.kff.org/hivaids/fact-sheet/the-hiv-aids-epidemic-in-the-united-states-the-basics/</a> [https://perma.cc/2SNT-MRML] .....</p> | 38 |
| <p>Hope C. Norris et al., <i>Utilization Impact of Cost-Sharing Elimination for Preventive Care Services: A Rapid Review</i>, 79 Med. Care. Rsch. &amp; Rev. 175 (2022).....</p>   | 17 |
| <p>Howard J. Bolnick et al., <i>Health-Care Spending Attributable to Modifiable Risk Factors in the USA: An Economic Attribution Analysis</i>, 5 Lancet Pub. Health e525 (2020) .....</p>  | 27 |
| <p>Jessica J. Zhang et al., <i>Assessment of Physician Priorities in Delivery of Preventive Care</i>, JAMA Network, July 27, 2020 .....</p>  | 14 |
| <p>John Aloysius Cogan Jr., <i>The Affordable Care Act's Preventive Services Mandate: Breaking Down the Barriers to Nationwide Access to Preventive Services</i>, 39 J.L. Med. &amp; Ethics 355 (2011).....</p>  | 12 |



**TABLE OF AUTHORITIES  
(CONTINUED)**

|   |    |
|---|----|
| Joshua P. Cohen et al., <i>Estimation of the Incremental Cumulative Cost of HIV Compared with a Non-HIV Population</i> , 4 <i>PharmacoEconomics Open</i> 687 (2020).....  | 39 |
| Karthik Gnanapandithan & Maged P. Ghali, <i>Self-Awareness of Hepatitis C Infection in the United States: A Cross-Sectional Study Based on the National Health Nutrition and Examination Survey</i> , <i>PloS One</i> , Oct. 24, 2023.....  | 35 |
| Linda-Gail Bekker et al., <i>Twice-Yearly Lenacapavir or Daily F/TAF for HIV Prevention in Cisgender Women</i> , 391 <i>New Eng. J. Med.</i> 1179 (2024).....   | 36 |
| Lorraine T. Dean et al., <i>Estimating the Impact of Out-of-Pocket Cost Changes on Abandonment of HIV Pre-Exposure Prophylaxis</i> , 43 <i>Health Affs.</i> 36 (2024) .....   | 37 |
| <i>Lung Cancer Survival Rates</i> , <i>Am. Cancer Soc.</i> (Jan. 29, 2024),<br><a href="https://www.cancer.org/cancer/types/lung-cancer/detection-diagnosis-staging/survival-rates.html">https://www.cancer.org/cancer/types/lung-cancer/detection-diagnosis-staging/survival-rates.html</a><br>[ <a href="https://perma.cc/P8ZB-YEJC">https://perma.cc/P8ZB-YEJC</a> ] ..... | 32 |

**TABLE OF AUTHORITIES  
(CONTINUED)**

|  |    |
|--|----|
| Lunna Lopes et al., <i>Americans' Challenges with Health Care Costs</i> , KFF (Mar. 1, 2024), <a href="https://www.kff.org/health-costs/issue-brief/americans-challenges-with-health-care-costs/">https://www.kff.org/health-costs/issue-brief/americans-challenges-with-health-care-costs/</a><br>[ <a href="https://perma.cc/SUP3-8TQ4">https://perma.cc/SUP3-8TQ4</a> ] .....   | 17 |
| Mayo Clinic Staff, <i>Diabetes Management: How Lifestyle, Daily Routine Affect Blood Sugar</i> , Mayo Clinic (Jan. 6, 2024), <a href="https://www.mayoclinic.org/diseases-conditions/diabetes/in-depth/diabetes-management/art-20047963">https://www.mayoclinic.org/diseases-conditions/diabetes/in-depth/diabetes-management/art-20047963</a><br>[ <a href="https://perma.cc/JU8K-PYMW">https://perma.cc/JU8K-PYMW</a> ]..... | 29 |
| Micha Yin Zheng et al., <i>Physician Barriers to Successful Implementation of US Preventive Services Task Force Routine HIV Testing Recommendations</i> , 13 J. Int'l Ass'n Providers AIDS Care 200 (2014) .....   | 13 |
| Michael D. Cabana, et al., <i>Why Don't Physicians Follow Clinical Practice Guidelines? A Framework for Improvement</i> , 282 JAMA 1458 (1999).....  | 13 |
| Nicole C. McCann, et. al., <i>HIV Antiretroviral Therapy Costs in the United States, 2012-2018</i> , 180 JAMA Internal Med. 601 (2020) .....   | 39 |

**TABLE OF AUTHORITIES  
(CONTINUED)**

|   |            |
|---|------------|
| Nigel Brockton, <i>Catching Cancer Early</i> , Am. Inst. for Cancer Rsch. (Nov. 13, 2024), <a href="https://www.aicr.org/resources/blog/catching-cancer-early/">https://www.aicr.org/resources/blog/catching-cancer-early/</a> [ <a href="https://perma.cc/5X9D-Y553">https://perma.cc/5X9D-Y553</a> ] .....  | 32         |
| Off. of the Assistant Sec’y for Plan. & Evaluation, U.S. Dep’t of Health & Hum. Servs., HP-2022-01, <i>Access to Preventive Services Without Cost-Sharing: Evidence from the Affordable Care Act 4</i> (Jan. 2022), <a href="https://aspe.hhs.gov/sites/default/files/documents/786fa55a84e7e3833961933124d70dd2/preventive-services-ib-2022.pdf">https://aspe.hhs.gov/sites/default/files/documents/786fa55a84e7e3833961933124d70dd2/preventive-services-ib-2022.pdf</a> [ <a href="https://perma.cc/J7U3-7959">https://perma.cc/J7U3-7959</a> ] ..... | 10, 17, 18 |
| Paraskevi Farmaki et al., <i>Complications of the Type 2 Diabetes Mellitus</i> , 16 <i>Current Cardiology Rev.</i> 249 (2020).....  | 29         |
| Paula M. Lantz et al., <i>Knowledge of and Attitudes Toward Evidence-Based Guidelines for and Against Clinical Preventive Services: Results from a National Survey</i> , 94 <i>Milbank Q.</i> 51 (2016) .....   | 13         |
| <i>Pre-Exposure Prophylaxis (PrEP)</i> , Ctrs. for Disease Control & Prevention (July 5, 2022), <a href="https://www.cdc.gov/hiv/risk/prep/index.html">https://www.cdc.gov/hiv/risk/prep/index.html</a> [ <a href="https://perma.cc/CT2Q-VNWM">https://perma.cc/CT2Q-VNWM</a> ].....  | 36         |

**TABLE OF AUTHORITIES  
(CONTINUED)**

|   |        |
|---|--------|
| <p>Press Release, Ctrs. for Disease Control &amp; Prevention, <i>HIV Declines Among Young People and Drives Overall Decrease in New HIV Infections</i> (May 23, 2023), <a href="https://www.cdc.gov/media/releases/2023/p0523-hivdeclines-among-young-people.html">https://www.cdc.gov/media/releases/2023/p0523-hivdeclines-among-young-people.html</a> [<a href="https://perma.cc/U749-BN34">https://perma.cc/U749-BN34</a>] .....</p>  | 37     |
| <p>Press Release, Nat'l Cancer Inst., <i>Annual Report to the Nation Part 2: Patient Economic Burden of Cancer Care More than \$21 Billion in the United States in 2019</i> (Oct. 26, 2021), <a href="https://www.cancer.gov/news-events/press-releases/2021/annual-report-nation-part-2-economic-burden">https://www.cancer.gov/news-events/press-releases/2021/annual-report-nation-part-2-economic-burden</a> [<a href="https://perma.cc/W7UA-A98N">https://perma.cc/W7UA-A98N</a>].....</p> | 33     |
| <p>Quyen Ngo-Metzger et al., <i>Estimated Impact of US Preventive Services Task Force Recommendations on Use and Cost of Statins for Cardiovascular Disease Prevention</i>, 33 <i>J. Gen. Intern. Med.</i> 1317 (2018).....</p>   | 16     |
| <p>Rajender Agarwal et al., <i>High-Deductible Health Plans Reduce Health Care Cost and Utilization, Including Use of Needed Preventive Services</i>, 36 <i>Health Affs.</i> 1762 (2017).....</p>   | 16, 17 |

**TABLE OF AUTHORITIES  
(CONTINUED)**

|  |    |
|--|----|
| Randall D. Cebul et al., <i>Organizational Fragmentation and Care Quality in the U.S. Healthcare System</i> , 22 J. Econ. Persps. 93 (2008).....   | 9  |
| Rebecca L. Siegel et al., <i>Cancer Statistics, 2022</i> , 72 CA Cancer J. Clinicians 7 (2022) .....   | 31 |
| Ricky Zipp, <i>Many Americans Are Likely to Skip Preventive Care if ACA Coverage Falls Through</i> , Morning Consult (Mar. 8, 2023, 5:00 AM),<br><a href="https://pro.morningconsult.com/trend-setters/affordable-care-act-polling-data">https://pro.morningconsult.com/trend-setters/affordable-care-act-polling-data</a><br>[ <a href="https://perma.cc/R653-R6HM">https://perma.cc/R653-R6HM</a> ].....   | 17 |
| Rima F. Khabbaz et al., <i>Challenges of Infectious Diseases in the USA</i> , 384 Lancet 53 (2014) .....   | 34 |
| Sabrina Corlette, <i>A World Without the ACA's Preventive Services Protections: The Impact of the Braidwood Decision</i> , Geo. Univ. Health Pol. Inst. Ctr. Child. & Fams. (Apr. 18, 2023),<br><a href="https://ccf.georgetown.edu/2023/04/18/a-world-without-the-acas-preventive-services-protections-the-impact-of-the-braidwood-decision/">https://ccf.georgetown.edu/2023/04/18/a-world-without-the-acas-preventive-services-protections-the-impact-of-the-braidwood-decision/</a><br>[ <a href="https://perma.cc/86F2-SQS8">https://perma.cc/86F2-SQS8</a> ] ..... | 18 |
| Sammy Saab et al., <i>Toward the Elimination of Hepatitis C in the United States</i> , 67 Hepatology 2449 (2018).....  | 36 |

**TABLE OF AUTHORITIES  
(CONTINUED)**

|  |    |
|--|----|
| <p><i>Smoking Cessation: A Report of the Surgeon General</i>, U.S. Dep’t. Health &amp; Hum. Servs. 6-7 (2020),<br/> <a href="https://www.hhs.gov/sites/default/files/2020-cessation-sgr-full-report.pdf">https://www.hhs.gov/sites/default/files/2020-cessation-sgr-full-report.pdf</a><br/> <a href="https://perma.cc/T7EG-GURW">[https://perma.cc/T7EG-GURW]</a> .....</p>   | 21 |
| <p><i>Statin Use for the Primary Prevention of Cardiovascular Disease in Adults: Preventive Medication</i>, U.S. Preventive Servs. Task Force (Aug. 23, 2022),<br/> <a href="https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/statin-use-in-adults-preventive-medication">https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/statin-use-in-adults-preventive-medication</a><br/> <a href="https://perma.cc/5MFE-E6LM">[https://perma.cc/5MFE-E6LM]</a> .....</p> | 22 |
| <p><i>Tracking Personal Health Care Spending in the US</i>, Inst. for Health Metrics &amp; Eval.,<br/> <a href="https://vizhub.healthdata.org/dex/">https://vizhub.healthdata.org/dex/</a><br/> <a href="https://perma.cc/HPJ4-X8X5">[https://perma.cc/HPJ4-X8X5]</a>.....</p>   | 34 |
| <p><i>Trends in Health Care Spending</i>, Am. Med. Ass’n. (July 9, 2024), <a href="https://www.ama-assn.org/about/research/trends-health-care-spending">https://www.ama-assn.org/about/research/trends-health-care-spending</a> [<a href="https://perma.cc/3CNN-N37Y">https://perma.cc/3CNN-N37Y</a>] .....</p>  | 26 |
| <p>Tomas J. Philipson et. al., <i>The Aggregate Value of Cancer Screenings in the United States: Full Potential Value and Value Considering Adherence</i>, 23 BMC Health Servs. Rsch., Aug. 7, 2023 .....</p>  | 32 |

**TABLE OF AUTHORITIES  
(CONTINUED)**

*Will Employers Introduce Cost Sharing for Preventive Services? Findings From EBRI's First Employer Pulse Survey*, Emp. Benefit Rsch. Inst.: Fast Facts (Oct. 27, 2022),  
<https://www.ebri.org/publications/research-publications/fast-facts/content/will-employers-introduce-cost-sharing-for-preventive-services-findings-from-ebri-s-first-employer-pulse-survey>  
[<https://perma.cc/DS23-Y6H7>]..... 19

## **BRIEF OF AMICI CURIAE**

*Amici* Center for Health Law Policy and Innovation, Chronic Illness and Disability Partnership, American Diabetes Association, Medicare Rights Center, Center for American Progress, Positive Women's Network-USA, Community Servings, National Alliance on Mental Illness, Center for Medicare Advocacy, AIDS Institute, and National Viral Hepatitis Roundtable submit this brief supporting Petitioners Robert F. Kennedy, Jr., Secretary of Health and Human Services, et al.<sup>1</sup>

## **INTEREST OF AMICI CURIAE**

**The Center for Health Law and Policy Innovation (CHLPI) at Harvard Law School** advocates for legal, regulatory, and policy reforms in health and food systems, with a focus on the health, public health, and food needs of individuals with lower income and others who experience health disparities. CHLPI has a long history of advocating for health care access for individuals living with and vulnerable to chronic illness and disabilities, including coordinating the **Chronic Illness and Disability Partnership (CIDP)**. CIDP consists of national organizations who focus on the health of individuals living with a wide range of chronic illnesses and disabilities, including cancer, diabetes, HIV, viral hepatitis, and mental health and substance use disorders, as well

---

<sup>1</sup> No counsel for a party authored this brief in whole or in part. No person or entity other than *Amici*, their members, or counsel made a monetary contribution for preparation or submission of this brief.



advocates for older and aging adults and for lower-income consumers more broadly. Members of CIDP are diverse, national organizations that also affiliate with strong regional, state, and community-based networks.

**The American Diabetes Association (ADA)** is the nation's leading voluntary health organization fighting to end diabetes and helping people thrive. For 84 years, the ADA has driven discovery and research to prevent, manage, treat, and ultimately cure diabetes. There are 136 million Americans living with diabetes or prediabetes. Through advocacy, program development, and education, we're fighting for them all.

**The Medicare Rights Center** is a national, nonprofit organization that works to ensure access to affordable and equitable health care for older adults and people with disabilities through counseling and casework, educational programs, and legislative and administrative advocacy. Since 1989, Medicare Rights has provided information and support to beneficiaries, caregivers, advocates, and professionals, including thousands of calls each year from people with serious illness and chronic conditions who would have benefited from prevention and early detection. Our work centers on the experiences of real people and the need to build a just and sustainable healthcare system.

**The Center for American Progress (CAP)** is an independent nonpartisan policy institute that is dedicated to improving the lives of all Americans through bold, progressive ideas, as well as strong leadership and concerted action. CAP played a role

in the development of the Patient Protection and Affordable Care Act (ACA) and supports and advocates for policies that preserve and build on its successes.

**Positive Women's Network-USA (PWN-USA)** is a national membership organization led by and for cisgender and transgender women and gender diverse people living with HIV. Our work centers the leadership of those most impacted by the HIV epidemic in the U.S., including Black, Indigenous and People of Color (BIPOC), queer and transgender people, low income and working-class people, people involved in sex work, substance users, and immigrant and migrant populations. PWN-USA envisions a future in which our communities can access non-discriminatory, trauma-informed, comprehensive health care regardless of gender identity, country of origin, immigration status, or ability to pay; and in which all women and gender diverse people are able to control our own bodies, sexuality and reproductive possibilities free from stigma and discrimination.

**Community Servings** is a Massachusetts-based nonprofit providing medically tailored meals to individuals experiencing critical and chronic illness. We offer 16 medical diets designed to help people improve their health through nutritionally appropriate food scratch-made from wholesome ingredients. Annually, we make and home-deliver over a million meals to thousands of families impacted by a critical or chronic illness.

**The National Alliance on Mental Illness (NAMI)** is the nation's largest grassroots mental health organization dedicated to building better lives for the millions of Americans affected by mental illness. NAMI is an alliance of more than 650 affiliate organizations that work in communities in all 50 States to raise awareness, provide support and education, and advocate for policy change. NAMI has a long history of working to ensure people with mental health conditions can access necessary treatment, including prevention and early intervention services.

**The Center for Medicare Advocacy** is a national, non-profit law organization that works to advance access to comprehensive Medicare coverage, health equity, and quality health care for older people and people with disabilities. Founded in 1986, the Center's work includes legal assistance, advocacy, education, analysis, policy initiatives, and litigation of importance to Medicare beneficiaries nationwide, with an emphasis on the needs of people with longer-term and chronic conditions.

**The AIDS Institute** is a leading national, nonprofit, nonpartisan organization working to increase access to health care for people living with and vulnerable to HIV, viral hepatitis and other chronic illness. We advocate for greater access to and utilization of evidence-based and effective screenings and preventive medicine to improve health outcomes and end the HIV and viral hepatitis epidemics.

**National Viral Hepatitis Roundtable**, a program of Hepatitis Education Project (HEP), is a network of patients, providers, public health leaders, and community groups working to eliminate viral hepatitis as a public health threat in the United States. The success of our mission hinges on the widespread availability, accessibility, and affordability of preventive services such as hepatitis B immunization and hepatitis B and C screening. Coverage and reimbursement issues for preventive services are therefore critical to our goal of dramatically reducing the burden of viral hepatitis in our country.

As *amici*, CHLPI, CIDP, and the organizations described above share a strong interest in ensuring that individuals living with or vulnerable to chronic illness have access to preventive care, including screenings, medications, and counseling and behavioral supports. Ensuring coverage of these services without cost-sharing helps individuals protect their health, avoid preventable illness and complications from chronic illness, and lead long, productive lives, in addition to supporting the long-term health of the U.S. healthcare system. *Amici* have a substantial interest in ensuring that this Court understands the critical connection between no-cost coverage of preventive services and alleviating the individual and nationwide burden of chronic illness.

## SUMMARY OF ARGUMENT

Chronic illness and disability impose extraordinary burdens on individuals and American society. Chronic illness too often leads to death and disability, spiraling health care costs, invasive and disruptive treatment, and economic burdens on families and communities. Indeed, President Trump earlier this month signed an executive order concluding that the “health of Americans is on an alarming trajectory” that “poses a dire threat to the American people and our way of life.” Exec. Order No. 14212, 90 Fed. Reg. 9833 (Feb. 19, 2025).

Evidence-based preventive services have been shown to delay or eliminate the onset of disease, detect illness early when it is most treatable, and mitigate exacerbations of chronic illness and disability. Yet evidence shows that people will often forgo or delay these services when there is a cost attached. Coverage of preventive services without cost-sharing is therefore critical to helping people access care that keeps them healthier and reduces their long-term likelihood of severe, resource-intensive disease or disability.

Moreover, because of the fractured health coverage system in the United States, with many people covered by employment-based coverage that is not subject to state regulation, and many others covered under Medicare or Medicaid, the federal preventive care coverage requirement, 42 U.S.C. § 300gg-13, is a critical lynchpin in combating the epidemic of chronic illness and disability. Without a uniform, federal, requirement for third-party

healthcare payors, like employers, insurers and government programs, to cover preventive services without cost-sharing, payors' incentives will not necessarily align with patients' or the larger healthcare system's interests in investing in prevention of long-term illness. Americans typically change payors frequently, and the health and economic benefits of preventive services accrue over a lifetime. By requiring that evidence-based preventive services be covered without cost-sharing, and creating a system of near-universal access to affordable health coverage, Congress addressed a market failure that Americans could not solve individually. The Court should reverse the decision below.

**ARGUMENT:  
THE PREVENTIVE CARE COVERAGE  
REQUIREMENT PROMOTES LONG-TERM  
INDIVIDUAL AND SYSTEMWIDE HEALTH  
BY HELPING AMERICANS AVOID  
CHRONIC DISEASE**

*Amici*, as dedicated advocates for individuals with chronic health conditions, are uniquely positioned to appreciate the role of the preventive care requirement in promoting good health and avoiding costly, life-threatening disease, both for individuals and the nation as a whole. The preventive care coverage requirement is fundamental to the functioning and sustainability of our modern healthcare system. The human and financial toll of chronic conditions, which can often be avoided or managed more effectively through timely preventive care, demonstrates the importance of broad access to these services.

**I. The Preventive Care Coverage Requirement Is Critical for Americans to Access Services That Keep Them Healthy.**

In enacting the preventive care coverage requirement, Congress recognized the importance of evidence-based care that prevents illness, including chronic illness, and could reduce healthcare costs. This effort to refocus health care on prevention was possible only because it was part of comprehensive federal health care reform that created a system of near-universal access to health coverage. Employers, unions, health insurers, and government health care programs were supportive of the preventive care coverage requirement in this environment: Even though Americans continue to have many forms of health coverage over their lifetimes, comprehensive health reform meant they would always have access to affordable preventive care and so, in addition to helping individuals stay healthier, the health system as a whole would benefit from a healthier population that would require less intensive and expensive treatments.

**A. The Preventive Care Coverage Requirement Aligns Access to Prevention Across the Fragmented Health Coverage System to Help Americans Stay Healthier.**

Preventive care is designed to detect disease, including chronic illness, at an earlier stage, prevent it from developing entirely, or mitigate its adverse effects, employing tools like screenings,

immunizations, routine check-ups, patient counseling, and preventive medications. See *A Framework for Assessing the Effectiveness of Disease and Injury Prevention*, Ctrs. for Disease Control & Prevention: Morbidity & Mortality Wkly. Reps. (Mar. 27, 1992) (differentiating between three levels of prevention: primary, to reduce risk for a disease before it develops; secondary, to detect a disease that has developed but before it becomes symptomatic; and tertiary, to intervene to prevent worsening of the disease). Despite the widely recognized benefits of preventive services, federal regulation is necessary to ensure health plans cover preventive care: The frequency with which Americans change health coverage—whether due to job changes, changes in eligibility for government programs, or other life events—means health insurers and government programs may not have appropriate incentives on their own to prevent and screen for illness. The health plans and programs that pay for the preventive care will often not benefit from the prevented disease and foregone treatment, as those benefits may be realized years after the preventive service is rendered. See Randall D. Cebul et al., *Organizational Fragmentation and Care Quality in the U.S. Healthcare System*, 22 J. Econ. Persps. 93 (2008).

The Patient Protection and Affordable Care Act (ACA) addressed this problem by creating near-universal access to health coverage and ensuring that coverage generally provided access to evidence-based preventive services without cost-sharing, so patients receive appropriate preventive care and plans pay for it, even if the health and



economic benefits would only materialize years in the future. *See* Pub. L. No. 111-148, 124 Stat. 119 (2010). This marked “a fundamental shift in the relationship between health insurance and clinical preventive care.” Sara Rosenbaum, *The Patient Protection and Affordable Care Act: Implications for Public Health Policy and Practice*, 126 *Pub. Health. Reps.* 130, 133 (2011).

First, the ACA created a framework in which health coverage was nearly universally accessible and affordable, resulting in an unprecedented reduction in the number of uninsured Americans. Off. of the Assistant Sec’y for Plan. & Evaluation, U.S. Dep’t of Health & Hum. Servs., HP-2022-01, *Access to Preventive Services Without Cost-Sharing: Evidence from the Affordable Care Act 4* (Jan. 2022), <https://aspe.hhs.gov/sites/default/files/documents/786fa55a84e7e3833961933124d70dd2/preventive-services-ib-2022.pdf> [<https://perma.cc/J7U3-7959>] [hereinafter *ACA Evidence*] (reporting a 42% reduction in the number of uninsured individuals since the ACA took full effect, from 45.2 million people in 2013 to 26.4 million in 2022) (citing *American Community Survey Tables for Health Insurance Coverage, HI-05: Health Insurance Coverage Status and Type of Coverage by State and Age for All People*, Census Bureau, <https://www.census.gov/data/tables/time-series/demo/health-insurance/acs-hi.html> [<https://perma.cc/5MHM-7R7E>] (generating data for 2013 and 2022)). The ACA did this by requiring health insurers to sell insurance to anyone who applies and prohibiting insurers from charging higher prices based on an individual’s health status.

42 U.S.C. §§ 300gg, 300gg-1. The ACA prohibits insurers and group health plans from imposing benefit exclusions based on an individual's pre-existing health condition. *Id.* § 300gg-3. It also provides premium tax credits that allow individuals without affordable employer-sponsored coverage, or Medicare or Medicaid, to buy affordable individual market coverage. 26 U.S.C. § 36B. At the same time, the ACA expanded Medicaid eligibility for low-income non-elderly non-disabled adults who were not previously eligible. 42 U.S.C. § 1396a(a)(10)(A)(ii).

In the context of this broadly available and affordable health coverage, Congress was able to mandate certain minimum standards, including coverage of preventive services, so that the health coverage would provide meaningful benefits. Among other requirements, the ACA requires coverage of recommended preventive care services, without cost-sharing, in all non-grandfathered individual and group insurance and group health plans. 42 U.S.C. § 300gg-13. These evidence-based preventive services include items and services with a grade "A" or "B" rating from the United States Preventive Services Task Force (USPSTF); immunizations recommended by the Advisory Committee on Immunization Practices (ACIP) of the Centers for Disease Control and Prevention; and additional services supported by the Health Resources and Services Administration (HRSA) for women, infants, children, and adolescents.<sup>2</sup> *Id.* This

<sup>2</sup> Although the constitutionality of the requirement to cover items and services recommended by ACIP and HRSA is not

benefit “transforms the U.S.’s public and private health care financing systems into vehicles for promoting public health” by making a core set of evidence-based services available, regardless of what form of health coverage an individual has. John Aloysius Cogan Jr., *The Affordable Care Act’s Preventive Services Mandate: Breaking Down the Barriers to Nationwide Access to Preventive Services*, 39 J.L. Med. & Ethics 355, 355 (2011).

The ACA extends no-cost-sharing preventive care benefits beyond employment-based health coverage and individual market plans by creating analogous requirements for the Medicare and Medicaid programs. Medicare now covers preventive services with a grade of “A” or “B” from the USPSTF that the Secretary of Health and Human Services determines are appropriate for Medicare beneficiaries and “reasonable and necessary for the prevention or early detection of an illness or disability.” 42 U.S.C. § 1395x(ddd). For states that have voluntarily expanded their Medicaid programs under the ACA, the expansion population must be enrolled in an “alternative benefit plan” that offers “essential health benefits,” which include no-cost-sharing preventive services. 42 U.S.C. § 1396a(k)(1). To encourage preventive care among traditional Medicaid beneficiaries, the ACA establishes a 1% federal funding match bonus

---

currently before the Court, coverage of services recommended by all three federal bodies ensures access to the full range of preventive care, including services geared specifically to the health needs of women and children. 42 U.S.C. § 300gg-13.

for states that offer preventive services without cost-sharing. 42 U.S.C. § 1396d(b)(5).

The preventive care coverage requirement operates on a systemic level across dimensions of the healthcare industry to promote preventive services access. Within the health professions, the requirement prompts providers to offer preventive care, which can lead to greater uptake among patients. Studies suggest that health care providers may lack awareness of, or familiarity with, preventive services recommendations or current best practices. Michael D. Cabana, et al., *Why Don't Physicians Follow Clinical Practice Guidelines? A Framework for Improvement*, 282 JAMA 1458, 1460-61 (1999) (identifying “knowledge barriers” through a literature review exploring physician barriers to clinical guideline adherence); *see, e.g.*, Micha Yin Zheng et al., *Physician Barriers to Successful Implementation of US Preventive Services Task Force Routine HIV Testing Recommendations*, 13 J. Int’l Ass’n Providers AIDS Care 200, 202 (2014) (reviewing literature published before ACA enactment and finding that less than one-third of providers knew of clinical guidelines and recommendations for HIV screening). By establishing a largely uniform and recognizable preventive benefit across health plans and programs, the ACA’s preventive care coverage requirement overcomes providers’ knowledge gaps in best practices for preventive services delivery. The requirement may also increase patients’ awareness of the availability of evidence-based preventive care, even if they are not always aware of the specific recommendations. *See, e.g.*, Paula M.

Lantz et al., *Knowledge of and Attitudes Toward Evidence-Based Guidelines for and Against Clinical Preventive Services: Results from a National Survey*, 94 *Milbank Q.* 51, 57 (2016) (finding that only 8% of adults responding to a 2013 survey knew about the USPSTF's clinical recommendations and 20% were familiar with "clinical preventive services," but 36% knew that the ACA required no-cost-sharing preventive care coverage). This may also encourage providers to offer preventive care because they know it is covered without cost-sharing for nearly all patients. One analysis of physician prioritization of preventive service recommendations found that nearly half of providers considered cost when preparing preventive care recommendations for patients. Jessica J. Zhang et al., *Assessment of Physician Priorities in Delivery of Preventive Care*, *JAMA Network*, July 27, 2020, at 4.

Only Congress can uniformly regulate the benefits covered by federal health care programs, such as Medicare, and by employment-based health coverage. In the absence of federal policymaking, while some interested states may seek to provide greater benefit protections for their residents, states are hampered by the preemption provision of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. § 1001 et seq., which preempts state laws that relate to private-employer employee benefit plans except those that regulate the business of insurance, 29 U.S.C. § 1144, generally relieving self-insured group health plans from compliance with state insurance benefit mandates. *See also* Elizabeth Y. McCuskey, *State*

*Cost-Control Reforms and ERISA Preemption*, The Commonwealth Fund (May 16, 2022), <https://www.commonwealthfund.org/publications/issue-briefs/2022/may/state-cost-control-reforms-erisa-preemption> [<https://perma.cc/MWJ7-K9AB>]. Given that employers are the largest source of health coverage in the country, and nearly two-thirds of workers who receive coverage from their employers are enrolled in self-funded plans, state authority to regulate health benefits is limited. *2024 Employer Health Benefits Survey*, KFF (2024), <https://www.kff.org/health-costs/report/2024-employer-health-benefits-survey/> [<https://perma.cc/GQP8-MWNNH>] (finding that 63% of workers with employer-sponsored health insurance were enrolled in at least partially self-funded plans in 2024). States can regulate only approximately 44% of the commercial market. *See id.*; *Health Insurance Coverage of the Total Population*, KFF, <https://www.kff.org/other/state-indicator/total-population> [<https://perma.cc/9UVT-BSL4>] (last visited Feb. 11, 2025) (estimating that 158 million individuals had employer-sponsored health insurance coverage in 2023 and an additional 20 million had non-group coverage, resulting in 178 million individuals in the commercial market). Uniform access to preventive care requires the federal preventive care coverage requirement.

**B. The Preventive Care Coverage Requirement Is Fundamental to This System.**

Coverage of preventive services without cost-sharing serves as the foundation of a healthcare

system oriented toward keeping people healthy. The elimination of cost-sharing for preventive services is based on more than intuition: evidence shows that cost deters consumers from receiving preventive care. Preventive care is inherently non-urgent, leading patients to deprioritize it as compared to services addressing acute medical needs. Research has found that cost-sharing—that is, out-of-pocket costs that patients incur, such as deductibles, copayments, or coinsurance payments—is associated with patients delaying or foregoing preventive care. See Rajender Agarwal et al., *High-Deductible Health Plans Reduce Health Care Cost and Utilization, Including Use of Needed Preventive Services*, 36 *Health Affs.* 1762, 1766 (2017); *Clinical and Equity Implications of Braidwood v. Becerra*, Ctr. for Value-Based Ins. Design (June 2, 2023), <https://vbidcenter.org/clinical-and-equity-implications-of-braidwood-v-becerra/> [<https://perma.cc/H35U-5BAZ>]. Before the ACA was enacted, one study found that cost-sharing decreased uptake of mammograms and Pap smears across multiple insurance plan types. Geetesh Solanki et al., *The Direct and Indirect Effects of Cost-Sharing on the Use of Preventive Services*, 34 *Health Servs. Rsch.* 1331, 1339-40, 1348 (2000). Higher out-of-pocket costs for statins to prevent cardiovascular disease have also been associated with a decrease in likelihood that patients keep taking them. Quyen Ngo-Metzger et al., *Estimated Impact of US Preventive Services Task Force Recommendations on Use and Cost of Statins for Cardiovascular Disease Prevention*, 33 *J. Gen. Intern. Med.* 1317, 1317-18, 1321 (2018).

Lower income patients are especially susceptible to the deterrent effect of cost-sharing. See Agarwal et al., *supra*, at 1762-63, 1767; Lunna Lopes et al., *Americans' Challenges with Health Care Costs*, KFF (Mar. 1, 2024), <https://www.kff.org/health-costs/issue-brief/americans-challenges-with-health-care-costs/> [<https://perma.cc/SUP3-8TQ4>]. In a 2023 survey, over half of respondents reported they would forgo preventive services if they had to pay out-of-pocket costs. Ricky Zipp, *Many Americans Are Likely to Skip Preventive Care if ACA Coverage Falls Through*, Morning Consult (Mar. 8, 2023, 5:00 AM), <https://pro.morningconsult.com/trend-setters/affordable-care-act-polling-data> [<https://perma.cc/R653-R6HM>]. Half of respondents also reported already avoiding other types of health care services because of cost. *Id.*

By eliminating cost-sharing, the preventive care coverage requirement makes it more likely that consumers will receive these crucial services. As of 2022, more than 150 million private health insurance enrollees were eligible to receive preventive services without cost-sharing. *ACA Evidence, supra*, at 4. One team of researchers reviewed 35 studies addressing various preventive services and determined that “[t]he majority of findings . . . conclude that cost-sharing elimination led to increases in utilization.” Hope C. Norris et al., *Utilization Impact of Cost-Sharing Elimination for Preventive Care Services: A Rapid Review*, 79 *Med. Care. Rsch. & Rev.* 175, 192 (2022). Additional research on health care utilization post-ACA enactment identified increases in evidence-based preventive services like cancer screenings and



blood pressure and cholesterol screenings. *ACA Evidence, supra*, at 7-10. The preventive care coverage requirement also facilitates standardization across different plans and plan types, reducing provider confusion regarding what preventive services are covered.

If some insurers stop offering preventive services coverage without cost-sharing, competitors will likely face pressure to follow suit and a “race to the bottom” is likely to ensue. *See* Brief for Blue Cross Blue Shield Association as Amicus Curiae Supporting Appellants and Vacatur, *Braidwood Mgmt. v. Becerra*, 104 F.4th 930 (5th Cir. 2024) (No. 23-10326) (“[O]nce a significant segment of the marketplace reimposes cost-sharing for preventive services or eliminates coverage, it could create perverse competitive incentives for others to follow suit. . . . [H]ealth insurers and health plans that continue to offer coverage for preventive services without cost-sharing may pay a competitive price for doing so.”) (citing Sabrina Corlette, *A World Without the ACA’s Preventive Services Protections: The Impact of the Braidwood Decision*, Geo. Univ. Health Pol. Inst. Ctr. Child. & Fams. (Apr. 18, 2023), <https://ccf.georgetown.edu/2023/04/18/a-world-without-the-acas-preventive-services-protections-the-impact-of-the-braidwood-decision/> [<https://perma.cc/86F2-SQS8>] (“[T]he ACA included the requirement to cover preventive services without cost-sharing because many health plans did not do so at the time. . . . If some health insurers start rolling back benefits, it could become a competitive disadvantage for other insurers not to do the same.”)). Recent survey data suggests that

cost-sharing will return if the preventive care coverage requirement is eliminated: Up to 20% of employers polled in 2022 reported that they would consider imposing some form of cost-sharing for preventive services if it were permitted. *Will Employers Introduce Cost Sharing for Preventive Services? Findings From EBRI's First Employer Pulse Survey*, Emp. Benefit Rsch. Inst.: Fast Facts (Oct. 27, 2022), <https://www.ebri.org/publications/research-publications/fast-facts/content/will-employers-introduce-cost-sharing-for-preventive-services-findings-from-ebri-s-first-employer-pulse-survey> [https://perma.cc/DS23-Y6H7]. Insurers may also consider imposing cost-sharing for certain preventive services but not others, incentivizing use of less expensive services rather than those that research shows are most effective. In the absence of the preventive care coverage requirement, insurers that would like to continue to cover all recommended preventive services without cost-sharing would struggle to compete with cheaper plans omitting or reducing those benefits.

## **II. No-Cost Coverage of Preventive Services Is an Essential Tool in the U.S. Response to the Growing Burden of Chronic Conditions.**

Nowhere is the relationship between the preventive care coverage requirement and keeping individual Americans and the U.S. healthcare system healthier more apparent than in the context of chronic conditions, which are a major driver of disability and death as well as systemwide U.S.

healthcare costs. Conditions such as heart disease, cancer, and diabetes—the first, second, and eighth leading causes of death in the U.S. respectively—exact a tremendous human and financial toll. See *Fast Facts: Health and Economic Costs of Chronic Conditions*, Ctrs. for Disease Control & Prevention (July 12, 2024), <https://www.cdc.gov/chronic-disease/data-research/facts-stats/index.html> [https://perma.cc/5GS2-8SXP] [hereinafter *Health and Econ. Costs*]; *Fast Stats: Diabetes*, Nat'l Ctr. for Health Stats., Ctrs. for Disease Control & Prevention (Apr. 27, 2024), <https://www.cdc.gov/nchs/fastats/diabetes.htm> [https://perma.cc/64UK-DDCQ]. The preventive care coverage requirement ensures no-cost access to services that help more than 150 million Americans reduce their risk of these and many other chronic conditions.

**A. Over the Long Term, Preventive Services Help Individuals Stay Healthier and Mitigate the Impact of Chronic Diseases, Creating a More Sustainable American Healthcare System.**

When preventive services are available without cost-sharing, people stay healthier over the long term. The ACA preventive care coverage requirement promotes screenings and other services that facilitate early intervention, which can contribute to better health outcomes and improved quality of life. For chronic diseases, preventive care improves early detection and management to avoid more advanced stages of disease—and, in some instances, can help individuals avoid disease entirely. The ACA

preventive care coverage requirement thereby reduces the individual and financial impact of conditions that impact huge portions of the U.S. population and propel growing national healthcare costs.

Many services subject to the preventive care coverage requirement reduce the likelihood of developing chronic disease and of experiencing further disease complications. For example:

- Behavioral counseling and medications to support tobacco cessation help people quit smoking, which reduces many risks associated with chronic conditions such as cardiovascular diseases, chronic obstructive pulmonary disease (COPD), and cancer, and for pregnant women reduces risks of pregnancy complications including miscarriage, stillbirth, and preterm birth. *See Final Recommendation Statement, Tobacco Smoking in Adults, Including Pregnant Persons: Interventions*, U.S. Preventive Servs. Task Force (Jan. 19, 2021), <https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/tobacco-use-in-adults-and-pregnant-women-counseling-and-interventions> [<https://perma.cc/D654-G2S3>]; *Smoking Cessation: A Report of the Surgeon General*, U.S. Dep't. Health & Hum. Servs. 6-7 (2020), <https://www.hhs.gov/sites/default/files/2020-cessation-sgr-full-report.pdf> [<https://perma.cc/T7EG-GURW>];
- Statins, which reduce the risk of cardiovascular disease, including coronary

heart disease and ischemic stroke. *Final Recommendation Statement, Statin Use for the Primary Prevention of Cardiovascular Disease in Adults: Preventive Medication*, U.S. Preventive Servs. Task Force (Aug. 23, 2022),

<https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/statin-use-in-adults-preventive-medication>  
[<https://perma.cc/5MFE-E6LM>];

- Blood pressure screening to diagnose hypertension, which facilitates treatment and can help prevent adverse health events such as stroke, heart attack, and heart failure. *Final Recommendation Statement, Hypertension in Adults: Screening*, U.S. Preventive Servs. Task Force (Apr. 27, 2021), <https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/hypertension-in-adults-screening> [<https://perma.cc/45UH-NG2E>];
- Blood glucose tests to screen for prediabetes and type 2 diabetes, which can enable patients to access lifestyle interventions to prevent diabetes and/or early diabetes treatment to avoid disease complications. *Final Recommendation Statement, Prediabetes and Type 2 Diabetes: Screening*, U.S. Preventive Servs. Task Force (Aug. 24, 2021), <https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/screening-for-prediabetes-and-type-2-diabetes>  
[<https://perma.cc/Y6UH-V4TS>];

- Screenings for breast, cervical, colorectal, and lung cancer, which facilitates early diagnosis and treatment for these conditions, and, for colonoscopies, in some instances prevents cancer from developing. *Final Recommendation Statement, Breast Cancer: Screening*, U.S. Preventive Servs. Task Force (Apr. 30, 2024), <https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/breast-cancer-screening> [<https://perma.cc/N722-ET53>]; *Final Recommendation Statement, Cervical Cancer: Screening*, U.S. Preventive Servs. Task Force (Aug. 21, 2018), <https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/cervical-cancer-screening> [<https://perma.cc/DSW5-JEZ3>] <sup>3</sup> ; *Final Recommendation Statement, Colorectal Cancer: Screening*, U.S. Preventive Servs. Task Force (May 18, 2021), <https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/colorectal-cancer-screening> [<https://perma.cc/N4YB-2J6H>]; *Final Recommendation Statement, Lung*

---

<sup>3</sup> The USPSTF's recommendation for cervical cancer screening is currently being updated, and a new draft recommendation statement was released for public comment in December 2024. *Draft Recommendation Statement: Cervical Cancer: Screening*, U.S. Preventive Servs. Task Force (Dec. 10, 2024), <https://www.uspreventiveservicestaskforce.org/uspstf/draft-recommendation/cervical-cancer-screening-adults-adolescents> [<https://perma.cc/4X8R-CGD6>].

*Cancer: Screening*, U.S. Preventive Servs. Task Force (Mar. 9, 2021), <https://www.uspreventiveservicestaskforce.org/uspstf/document/RecommendationStatementFinal/lung-cancer-screening> [<https://perma.cc/74BC-VTWW>]. USPSTF recommendations also cover genetic screening, counseling, and medications that reduce the likelihood of developing breast cancer in patients with increased genetic risk. *Final Recommendation Statement, BRCA-Related Cancer: Risk Assessment, Genetic Counseling, and Genetic Testing*, U.S. Preventive Servs. Task Force (Aug. 20, 2019), <https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/brca-related-cancer-risk-assessment-genetic-counseling-and-genetic-testing> [<https://perma.cc/EN3L-839Y>].

- HIV Pre-Exposure Prophylaxis (PrEP), which is extremely effective at preventing acquisition of HIV through sex or intravenous drug use. *Final Recommendation Statement, Prevention of Acquisition of HIV: Preexposure Prophylaxis*, U.S. Preventive Servs. Task Force (Aug. 22, 2023), <https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/prevention-of-human-immunodeficiency-virus-hiv-infection-pre-exposure-prophylaxis> [<https://perma.cc/BD9B-2L6F>] [hereinafter *PrEP Recommendation*].

- Mental health screenings, which help enable people to access treatment. *Final Recommendation Statement, Anxiety Disorders in Adults: Screening*, U.S. Preventive Servs. Task Force (June 20, 2023), <https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/anxiety-adults-screening> [<https://perma.cc/T5HR-377U>]; *Final Recommendation Statement, Anxiety in Children and Adolescents: Screening*, U.S. Preventive Servs. Task Force (Oct. 11, 2022), <https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/screening-anxiety-children-adolescents> [<https://perma.cc/M4HS-4C94>]; *Final Recommendation Statement, Depression and Suicide Risk in Adults: Screening*, U.S. Preventive Servs. Task Force (June 20, 2023), <https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/screening-depression-suicide-risk-adults> [<https://perma.cc/KPQ2-JMNT>]; *Final Recommendation Statement, Depression and Suicide Risk in Children and Adolescents: Screening*, U.S. Preventive Servs. Task Force (Oct. 11, 2022), <https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/screening-depression-suicide-risk-children-adolescents> [<https://perma.cc/PE9P-3GZD>].

Of the conditions these services target, heart disease alone impacts approximately one third of American adults and costs hundreds of billions of



dollars for treatment and rehabilitation services annually. Andrew J. Foy & John M. Mandrola, *Heavy Heart: The Economic Burden of Heart Disease in the United States Now and in the Future*, 45 *Primary Care: Clinics Off. Prac.* 17, 18 (2018). Other recommended preventive services also target chronic health conditions, including other infectious diseases, osteoporosis and fractures in adults, and dental cavities (caries) in children.<sup>4</sup>

As more people avoid disease and disability through access to preventive care, the American health care system avoids unnecessary spending. In the process of drafting the ACA, lawmakers emphasized that health reform goals included “to reduce growth in health spending” and “to make the nation’s health care system more efficient.” H.R. Rep. No. 111-299, pt. 2, at 198-99 (2009) (reported by the House Ways and Means Committee). The cost containment imperative is only more relevant in light of the continued growth of healthcare spending in the United States, reaching \$4.5 trillion and making up over 17% of the national economy in 2022. *Trends in Health Care Spending*, Am. Med. Ass’n. (July 9, 2024), <https://www.ama-assn.org/about/research/trends-health-care->

---

<sup>4</sup> For a complete list of services with a current USPSTF grade A or B as of January 2025, organized by area of medical specialty and analyzed for changes since the ACA was enacted, see Anu Dairkee, USPSTF A & B Recommendations as of January 2025, Center for Health Law and Policy Innovation, <https://chlp.org/wp-content/uploads/2025/01/USPSTF-A-B-Recommendations-V3.pdf> [<https://perma.cc/J4GM-EKTD>].

spending [<https://perma.cc/3CNN-N37Y>]. Chronic diseases contribute heavily to these trends. Nearly 90% of American health care expenditures are dedicated to treatment for chronic and mental health conditions. *Health and Econ. Costs, supra*. Health economists estimated that a quarter of health care spending in the United States in 2016 was attributable to “modifiable risk factors,” such as high body mass index, high blood pressure, and high blood sugar levels, which largely influenced spending on chronic conditions like cardiovascular diseases and diabetes and for treatment of hypertension. Howard J. Bolnick et al., *Health-Care Spending Attributable to Modifiable Risk Factors in the USA: An Economic Attribution Analysis*, 5 *Lancet Pub. Health* e525, e528 (2020). Indeed, President Trump’s recent executive order establishing the Make America Healthy Again Commission includes a directive to federal agencies to ensure that healthcare payors can “provide benefits that support beneficial lifestyle changes and disease prevention.” Exec. Order No. 14212, 90 Fed. Reg. 9833 (Feb. 19, 2025).

In the absence of preventive care without cost-sharing, healthcare consumers will likely forego services that would prevent the onset or worsening of costly chronic conditions, resulting in greater health system spending on initially avoidable treatments. These trends will likely compound for consumers with lower socioeconomic status, who already experience greater chronic disease burden. *See, e.g.*, Gabriel A. Benavidez et al., *Chronic Disease Prevalence in the US: Sociodemographic and Geographic Variations by Zip Code Tabulation*

*Area*, 21 *Prev. Chronic Disease*, Feb. 29, 2024; Dhruv Khullar & Dave A. Chokshi, *Health, Income, & Poverty: Where We Are & What Could Help*, *Health Affs: Health Pol’y Brief* (Oct. 4, 2018), 2-3. Thus, the preventive care coverage requirement is a critical tool to help improve Americans’ health and tame health care spending over the long term.

**B. Preventive Services Are Critical to Diagnosis and Prevention of Many Chronic Disease Types.**

For an individual, access to no-cost preventive care may mean the difference between an early cancer diagnosis and one that comes too late, or timely access to care that averts a disabling stroke. On the nationwide scale, the epidemic of chronic illness highlights the importance and utility of these policies. Numerous preventive services illustrate this, but the following three examples demonstrate the breadth of these services and their substantial impact on individual and system-wide health.

**1. Diabetes**

Patients at risk for diabetes—the costliest chronic condition in the U.S., resulting in more than \$400 billion annually in medical costs and lost productivity—benefit from zero-cost access to preventive care. *Health and Economic Benefits of Diabetes Interventions*, Nat’l Ctr. for Chronic Disease Prevention & Health Promotion, Ctrs. for Disease Control & Prevention (Jan. 30, 2025), <https://www.cdc.gov/nccdphp/priorities/diabetes-interventions.html> [<https://perma.cc/MC2L-EB2K>] [hereinafter *Health and Econ. Benefits of Diabetes*

*Interventions*]. “More than 38 million Americans of all ages have diabetes, and 98 million adults are at high risk.” *Id.* Although a manageable condition, diabetes poses substantial risks to an individual’s health if left untreated, including vision problems, cardiovascular disease, kidney disease, lesions in the extremities that can result in amputation, coma, and death. Paraskevi Farmaki et al., *Complications of the Type 2 Diabetes Mellitus*, 16 *Current Cardiology Rev.* 249, 249-51 (2020). Mitigating these risks requires early detection and careful management. See Akram T. Kharroubi & Hisham M. Darwish, *Diabetes Mellitus: The Epidemic of the Century*, 6 *World J. Diabetes* 850 (2015). Lifestyle interventions, such as improving nutrition and increasing exercise, can prevent the development of the disease, and medical treatments, typically insulin injections, are crucial to ensuring the disease does not escalate once it develops. See *id.*; Mayo Clinic Staff, *Diabetes Management: How Lifestyle, Daily Routine Affect Blood Sugar*, Mayo Clinic (Jan. 6, 2024), <https://www.mayoclinic.org/diseases-conditions/diabetes/in-depth/diabetes-management/art-20047963> [<https://perma.cc/JU8K-PYMW>].

The preventive care coverage requirement ensures that all privately insured adults who “have overweight or obesity” can access blood tests to screen for diabetes and preventive interventions such as nutrition counseling at no cost. *Final Recommendation Statement, Prediabetes and Type 2 Diabetes: Screening*, U.S. Preventive Servs. Task Force (Aug. 24, 2021),

<https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/screening-for-prediabetes-and-type-2-diabetes> [<https://perma.cc/PK7D-U92K>]; see *Final Recommendation Statement, Weight Loss to Prevent Obesity-Related Morbidity and Mortality in Adults: Behavioral Interventions*, U.S. Preventive Servs. Task Force (Sept. 18, 2018), <https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/obesity-in-adults-interventions> [<https://perma.cc/EAT3-54QZ>]. Access to screenings and other preventive services are critical, as strategies are available to reduce the risk of diabetes complications once patients are diagnosed. *Health and Econ. Benefits of Diabetes Interventions*, *supra*; see *Early Blood Glucose Control for People with Type 2 Diabetes Is Crucial for Reducing Complications and Prolonging Life*, Univ. of Oxford: News (May 20, 2024), <https://www.ox.ac.uk/news/2024-05-20-early-blood-glucose-control-people-type-2-diabetes-crucial-reducing-complications> [<https://perma.cc/4HC4-BVME>] (early diagnosis and intensive blood glucose control reduced severe diabetic complications and deaths). Eliminating the ACA preventive care coverage requirement risks creating barriers to preventive diabetes services, escalating the substantial human and economic costs of undertreated and undiagnosed diabetes.

## 2. Cancer Screenings

The USPSTF's recommendations for cancer screenings are critical to early detection of common cancers, which saves lives, improves quality of life, and reduces treatment costs. *Earlier Cancer Detection Improves Quality of Life and Patient*

*Outcomes*, Avalere (July 29, 2021), <https://avalere.com/insights/earlier-cancer-detection-improves-quality-of-life-and-patient-outcomes> [<https://perma.cc/KEB8-8Z5Y>]. Between 1991 and 2019, the cancer death rate declined by 32%, largely due to reductions in smoking, advances in early detection, and improved treatments. Rebecca L. Siegel et al., *Cancer Statistics, 2022*, 72 *CA Cancer J. Clinicians* 7, 29-30 (2022). The USPSTF's cancer screening recommendations are updated periodically to reflect advances in screening techniques and changing cancer prevalence trends. *See, e.g., Final Recommendation Statement, Colorectal Cancer: Screening*, U.S. Preventive Servs. Task Force (May 18, 2021) <https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/colorectal-cancer-screening> [<https://perma.cc/N4YB-2J6H>] (expanding recommended age for colon cancer screenings to include adults aged 45-49 and to cover new screening modalities such as stool DNA testing).

Early cancer detection is associated with significantly better prognoses and lower mortality rates. For example, almost 89% of adults diagnosed with early-stage colorectal cancer live for five years or more, “compared to only 16% of those diagnosed with late-stage cancer.” *Health and Economic Benefits of Colorectal Cancer Interventions*, Nat'l Ctr. for Chronic Disease Prevention & Health Promotion, Ctrs. for Disease Control & Prevention (Oct. 16, 2024), <https://www.cdc.gov/nccdphp/priorities/colorectal-cancer.html> [<https://perma.cc/N8ZX-7WEP>].

Cervical cancer has only a 19% five-year survival rate if detected after it has spread to distant parts of the body. *Cervical Cancer Prognosis and Survival Rates*, Nat'l Cancer Inst. (Apr. 27, 2023), <https://www.cancer.gov/types/cervical/survival> [<https://perma.cc/3393-J3HM>]. However, if detected early, the five-year survival rate is 91%. *Id.* Lung and breast cancers have similarly staggering differences in early- and late-stage survival rates. *See Lung Cancer Survival Rates*, Am. Cancer Soc. (Jan. 29, 2024), <https://www.cancer.org/cancer/types/lung-cancer/detection-diagnosis-staging/survival-rates.html> [<https://perma.cc/P8ZB-YEJC>]; *Health and Economic Benefits of Breast Cancer Interventions*, Nat'l Ctr. for Chronic Disease Prevention & Health Promotion, Ctrs. for Disease Control & Prevention (July 11, 2024), <https://www.cdc.gov/nccdphp/priorities/breast-cancer.html> [<https://perma.cc/Q4UX-RW2Q>]. These saved lives are not merely speculative—a 2023 study found that between 1996 and 2020, the USPSTF's recommendations for breast, cervical, colorectal, and lung cancer screenings have saved between 12.2 and 16.2 million life years at current adherence rates. Tomas J. Philipson et. al., *The Aggregate Value of Cancer Screenings in the United States: Full Potential Value and Value Considering Adherence*, 23 BMC Health Servs. Rsch., Aug. 7, 2023, at 1. Early-stage cancers also often require less aggressive treatments, which are associated with less side effects and improved quality of life. Nigel Brockton, *Catching Cancer Early*, Am. Inst. for Cancer Rsch. (Nov. 13, 2024),

<https://www.aicr.org/resources/blog/catching-cancer-early/> [<https://perma.cc/5X9D-Y553>].

Access to cancer screenings also helps mitigate the extraordinary individual, family, and health system-wide costs associated with cancer. In 2015, national costs for cancer care were estimated to be \$190.2 billion, with those costs expected to grow as the U.S. population ages. *Financial Burden of Cancer Care, Cancer Trends Progress Report*, Nat'l Cancer Inst. (Mar. 2024), [https://progressreport.cancer.gov/after/economic\\_burden](https://progressreport.cancer.gov/after/economic_burden) [<https://perma.cc/EL3U-ZLWS>]. Much of this cost falls on individuals and families; in 2019, “the national patient economic burden associated with cancer care was \$21.09 billion,” including out-of-pocket costs and time costs. Press Release, Nat'l Cancer Inst., *Annual Report to the Nation Part 2: Patient Economic Burden of Cancer Care More than \$21 Billion in the United States in 2019* (Oct. 26, 2021), <https://www.cancer.gov/news-events/press-releases/2021/annual-report-nation-part-2-economic-burden> [<https://perma.cc/W7UA-A98N>]. However, treatments for cancer patients diagnosed at an early stage are two to four times less expensive than treating late-stage cancers. *Early Cancer Diagnosis Saves Lives, Cuts Treatment Costs*, World Health Org., (Feb. 3, 2017), <https://www.who.int/news/item/03-02-2017-early-cancer-diagnosis-saves-lives-cuts-treatment-costs> [<https://perma.cc/4DWC-BAC4>]. Patients diagnosed at earlier stages are also more likely to be able to continue to work and support themselves and their families while undergoing treatment. *Id.*



Despite the advantages of early cancer detection, a 2023 study found that 38% of Americans surveyed would not pay out-of-pocket for cancer screenings currently covered by the ACA. *Zipp, supra*. If costs associated with these screenings are passed on to patients, fewer will pursue cancer screenings and more early-stage cancers will go undetected, increasing cancer mortality rates and costs for cancer treatment and care.

### **3. Infectious Diseases Screenings and Prevention**

“[I]nfectious diseases continue to present substantial challenges to health and health-care resources” in the United States. Rima F. Khabbaz et al., *Challenges of Infectious Diseases in the USA*, 384 *Lancet* 53 (2014). USPSTF recommendations help enable prevention and treatment of many common infectious diseases, such as chronic hepatitis C, HIV, sexually transmitted infections, and tuberculosis, that exact billions of dollars in annual healthcare costs. See Anu Dairkee, *USPSTF A & B Recommendations as of January 2025*, Ctr. for Health L. & Pol’y Innovation, at 14-19, <https://chlpi.org/wp-content/uploads/2025/01/USPSTF-A-B-Recommendations-V3.pdf> [<https://perma.cc/J4GM-EKTD>]; *Tracking Personal Health Care Spending in the US*, Inst. for Health Metrics & Eval., <https://vizhub.healthdata.org/dex/> [<https://perma.cc/HPJ4-X8X5>] (annual costs for HIV and tuberculosis alone were approximately \$16 billion in 2016). Without access to no-cost preventive care, many people will likely forgo screenings for conditions for which they are

asymptomatic, or forgo PrEP even if it would help protect them from HIV, increasing acquisitions of HIV and other infectious diseases that can be life-threatening.

Hepatitis C screenings are a prime example. Hepatitis C is the most common chronic bloodborne condition in the United States, impacting an estimated 2.7 to 3.9 million people. *Hepatitis C*, Nat'l Inst. of Diabetes & Digestive & Kidney Diseases, Nat'l Insts. of Health (Mar. 2020), <https://www.niddk.nih.gov/health-information/liver-disease/viral-hepatitis/hepatitis-c> [<https://perma.cc/6MEU-BC7X>]; Eric W. Hall et al., *Estimating Hepatitis C Prevalence in the United States, 2017-2020*, 81 *Hepatology* 625, 632 (2025). Yet approximately 40% of individuals with hepatitis C in the United States (roughly 840,000 people) are unaware of their condition, as symptoms manifest slowly. Karthik Gnanapandithan & Maged P. Ghali, *Self-Awareness of Hepatitis C Infection in the United States: A Cross-Sectional Study Based on the National Health Nutrition and Examination Survey*, *PloS One*, Oct. 24, 2023, at 1. Hepatitis C can cause life-threatening complications, but, with timely diagnosis, antiviral medications can cure hepatitis C in more than 95% of patients. *Hepatitis C Basics*, Ctrs. for Disease Prevention & Control (Jan. 31, 2025), <https://www.cdc.gov/hepatitis-c/about/index.html> [<https://perma.cc/4XAJ-3WC9>]. Screenings thus enable people to know whether they are living with hepatitis C, to connect with curative treatment, and to avoid transmission to others. *See Final Recommendation Statement*,

*Hepatitis C Virus Infection in Adolescents and Adults: Screening*, U.S. Preventive Servs. Task Force (Mar. 2, 2020), <https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/hepatitis-c-screening> [https://perma.cc/W4KEDTNN]. Eliminating hepatitis C in the United States—an ambitious but achievable, bipartisan goal given sufficient screening and treatment—would save over \$6.5 billion per year and improve the quality of life and longevity of hundreds of thousands. Sammy Saab et al., *Toward the Elimination of Hepatitis C in the United States*, 67 *Hepatology* 2449, 2454 (2018); Francis Collins, *We Are Squandering One of the Most Important Medical Advances of the 21st Century*, *The N.Y. Times* (Nov. 28, 2023), <https://www.nytimes.com/2023/11/28/opinion/hepatitis-c-eliminate.html> [https://perma.cc/D2GM-QNYV].

Similarly, PrEP is a critical tool to ending the U.S. HIV epidemic—but only if individuals who would benefit can access it. PrEP is extremely effective at preventing HIV transmission, reducing the risk of acquiring HIV through sex by 99% and through intravenous drug use by 74%. *Pre-Exposure Prophylaxis (PrEP)*, Ctrs. for Disease Control & Prevention (July 5, 2022), <https://www.cdc.gov/hiv/risk/prep/index.html> [https://perma.cc/CT2Q-VNWM]. Even more efficacious PrEP medications are in development and anticipated to receive FDA approval in the coming years. See Linda-Gail Bekker et al., *Twice-Yearly Lenacapavir or Daily F/TAF for HIV Prevention in Cisgender Women*, 391 *New Eng. J.*

Med. 1179, 1179 (2024) (zero patients in a randomized controlled trial acquired HIV when given the twice-yearly injectable medication lenacapavir). The preventive care coverage requirement ensures access to PrEP without cost-sharing for people with private insurance, *PrEP Recommendation, supra*, and creates a mechanism by which the PrEP recommendation (and other recommendations) can be updated as even more effective prevention methods are developed.

Access to PrEP without cost-sharing has already improved individual and public health—but imposing cost-sharing for PrEP threatens to reverse this progress. Increased PrEP use in recent years has been associated with a decline in HIV transmissions in the United States. Press Release, Ctrs. for Disease Control & Prevention, *HIV Declines Among Young People and Drives Overall Decrease in New HIV Infections* (May 23, 2023), <https://www.cdc.gov/media/releases/2023/p0523-hivdeclines-among-young-people.html> [https://perma.cc/U749-BN34]. Researchers have found that even small increases in out-of-pocket costs for PrEP make it significantly more likely that patients will stop refilling their prescriptions, with abandonment rates increasing dramatically as out-of-pocket costs rise. Lorraine T. Dean et al., *Estimating the Impact of Out-of-Pocket Cost Changes on Abandonment of HIV Pre-Exposure Prophylaxis*, 43 *Health Affs.* 36, 39 (2024). Another study estimated that ending the requirement requiring coverage of PrEP without cost-sharing would result in at least two thousand otherwise preventable HIV acquisitions among men who have

sex with men (MSM) in one year alone. A. David Paltiel et al., *Increased HIV Transmissions with Reduced Insurance Coverage for HIV Preexposure Prophylaxis: Potential Consequences of Braidwood Management v. Becerra*, Open F. Infectious Diseases, Mar. 2023, at 2-3, Table 2.

Conversely, increased uptake of PrEP will continue to reduce transmissions of HIV and reduce the future burden of HIV-related care on the U.S. healthcare system. HIV is a chronic, lifelong condition that is life-threatening without treatment. *About HIV*, Ctrs. for Disease Control & Prevention (Jan. 14, 2025),

<https://www.cdc.gov/hiv/about/index.html>

[<https://perma.cc/SUX5-Z5KY>]. Approximately 1.2 million people in the United States live with HIV, and there were more than 31 thousand new transmissions in the United States in 2022.

*The HIV/AIDS Epidemic in the United States: The Basics*, KFF (Aug. 16, 2024)

<https://www.kff.org/hiv/aids/fact-sheet/the-hiv-aids-epidemic-in-the-united-states-the-basics/>

[<https://perma.cc/2SNT-MRML>]. Although

treatment and management of HIV have improved dramatically, approximately eight thousand people per year continue to die with HIV-related illnesses as a contributing cause of death. *Id.*; *About HIV*, Ctrs. for Disease Control & Prevention (Jan. 14, 2025), <https://www.cdc.gov/hiv/about/index.html> [<https://perma.cc/SUX5-Z5KY>]. Consistent access to antiretroviral treatment can help people living with HIV live long, healthy lives and avoid transmitting HIV to others, but the treatment is costly, with average annual costs for first-line therapies

ranging from \$36 thousand to \$48 thousand per year in 2018. Nicole C. McCann, et. al., *HIV Antiretroviral Therapy Costs in the United States, 2012-2018*, 180 JAMA Internal Med. 601, 601 (2020). People living with HIV are also at higher risk for developing other chronic conditions, such as cardiovascular disease, cancers, and diabetes. Allison R. Weibel, et. al., *A Review of Chronic Comorbidities in Adults Living with HIV: State of the Science*, 32 J. Ass'n Nurses AIDS Care 322, 322 (2021). The average healthcare costs for a person living with HIV are thus seven times higher than a person without HIV. Joshua P. Cohen et al., *Estimation of the Incremental Cumulative Cost of HIV Compared with a Non-HIV Population*, 4 Pharmacoeconomics Open 687, 692 (2020). Ensuring that PrEP remains accessible to individuals with insurance thus protects them from a life-threatening condition that, while highly treatable, generates huge costs for the U.S. healthcare system.

### CONCLUSION

For the foregoing reasons, this Court should reverse the decision of the U.S. Court of Appeals for the Fifth Circuit and ensure continued access to preventive care without cost-sharing pursuant to 42 U.S.C. § 300gg-13(a)(1).

Respectfully submitted,  
Benjamin G. Shatz\*  
*Counsel of Record*  
Michael Kolber  
Shannon Gonick  
MANATT, PHELPS & PHILLIPS, LLP  
2049 Century Park East, Suite 1700  
Los Angeles, CA 90067  
BShatz@manatt.com  
(310) 312-4000

Dated: February 25, 2025

Elizabeth Kaplan  
Carmel Shachar  
Elizabeth Kaplan  
Undaleeb Dairkee  
CENTER FOR HEALTH LAW AND POLICY INNOVATION  
AT HARVARD LAW SCHOOL  
1607 Massachusetts Ave  
4th Floor  
Cambridge, MA 02138

*Counsel for Amici Curiae Members of the Chronic  
Illness and Disability Partnership*