



# Braidwood Management v. Becerra (N.D. Tex.; 5th Cir.)

Topics Covered: Affordable Care Act, Public Health

## Issue

The issue in this case is whether the ACA requirement that most private insurance plans cover recommended preventive care services without cost sharing is unlawful.

## AMA Interest

Our AMA advocates for (1) health care reform that includes evidence-based prevention insurance coverage for all; (2) evidence-based prevention in all appropriate venues, such as primary care practices, specialty practices, workplaces, and the community.

## Case Summary

Plaintiffs are six individuals and two businesses who challenge the legality of the ACA's preventive care service requirements under the U.S. Constitution and the Religious Freedom Restoration Act ("RFRA"). Each Plaintiff wishes to obtain or provide health insurance that excludes or limits coverage currently required by the preventive care mandates. The plaintiffs object to the services required under the ACA for a mixture of religious and economic reasons.

Plaintiffs' complaint asserts five claims. Plaintiffs allege that (1) the preventive care requirements violate the Appointments Clause; (2) the preventive care requirements violate the nondelegation doctrine; (3) 42 U.S.C. § 300gg-13(a)(1) violates the Vesting Clause; (4) the preventive care requirements, as a matter of statutory interpretation, apply only to ratings, recommendations, or guidelines in place at the time Congress passed the ACA; and (5) the requirement related to pre-exposure prophylaxis ("PrEP") drugs to prevent transmission of HIV violates RFRA.

On March 30, 2023, the federal district court found that the U.S. Preventive Services Task Force was structured in violation of the "Appointments Clause" of the constitution. It ordered that all actions taken by HHS to implement or enforce the preventive care coverage requirements in response to an "A" or "B" recommendation by the U.S. Preventive Services Task Force be vacated and enjoined going forward. The court also ordered that the named plaintiffs need not comply with the requirements around pre-exposure prophylaxis (PrEP), based on their rights under the Religious Freedom Restoration Act. This is an unfavorable result, and it is inconsistent with the Litigation Center's brief.

On March 31, the federal government appealed to the Fifth Circuit. It sought a partial stay of the trial court decision which, pending resolution of the full appeal, would limit the trial court ruling to insurance policies purchased by the plaintiffs but not to insurance policies purchased by the general public.

The case is currently on appeal to the Fifth Circuit Court of Appeals.

### **Litigation Center Involvement**

The Litigation Center and other Federation members have several *amicus* briefs in the district court and court of appeals supporting the ACA's preventive care provisions and explaining the harm that a broad remedy in this case would inflict on the nation's health.

United States District Court for the Northern District of Texas Brief

United States Court of Appeals for the Fifth Circuit Stay Brief

United States Court of Appeals for the Fifth Circuit Merits Brief

United States Court of Appeals for the Fifth Circuit Supplemental Brief