

## Texas Federal Court Invalidates Part of the ACA's Preventive Care Mandate

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**PRACTICES** Health and Welfare Plans, Employee Benefits and Executive Compensation

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In *Braidwood Management, Inc., et al v. Xavier*, the U.S. District Court for the Northern District of Texas issued an opinion and order that invalidated part of the requirement under the Affordable Care Act (“**ACA**”) for health plans to cover certain preventive care services, including screenings for some cancers and pre-exposure prophylaxis against HIV (“**PrEP**”).

Previously, the Preventive Services Task Force, an advisory body that recommends what preventive care should be covered under the ACA, recommended that the ACA require insurers and self-funded group health plans to cover certain preventive health services without cost sharing. A group of unrelated individuals and employers brought a legal challenge arguing that providing free PrEP is against their religious beliefs and that the Preventive Services Task Force itself is illegal. The court determined that the Preventive Services Task Force was unconstitutional because, although it has the power to make binding recommendations, its members were not appointed by the President or confirmed by the Senate. The court thus vacated actions taken by HHS to implement or enforce ACA preventive services coverage requirements that were recommended by the Preventive Services Task Force. Other preventive care services required under the ACA are not affected by this ruling.

The court’s ruling is effective immediately; however, it was appealed by HHS on March 31, 2023 and may be stayed during such appeal. We will provide updates as warranted by future legal developments in this case.