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## Bulletin 23-6

**Date:** March 31, 2023

**To:** All insurers, health maintenance organizations, nonprofit health service plans, or any other persons that provide health benefit plans subject to State regulation

**Re:** Inapplicability of *Braidwood Management, Inc. et al. v. Becerra* to Coverage of Preventive Services in Health Benefit Plans issued in Maryland

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The Maryland Insurance Administration (“the Administration”) is issuing this Bulletin to confirm to all carriers<sup>1</sup> that the Final Judgment issued in *Braidwood Management, Inc. et al. v. Becerra*, Civil Action 4:20-cv-00283-O, (U.S District Court for the Northern District of Texas) on March 30, 2023 does not impact health benefit plans<sup>2</sup> issued in Maryland. Md. Ann. Code, Ins. Art. § 15-1A-10 (2017 Repl. Version) expressly states:

(a) Except as provided in subsections (b) and (c) of this section, a carrier shall provide coverage for and may not impose any cost-sharing requirements, including copayments, coinsurance, or deductibles for:

(1) evidence-based items or services that have in effect a rating of A or B in the current recommendations of the United States Preventive Services Task Force with respect to the individual involved;

(2) immunizations for routine use in children, adolescents, and adults that have in effect a recommendation from the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention with respect to the individual involved, if the recommendation:

(i) has been adopted by the Director of the Centers for Disease Control and Prevention; and

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<sup>1</sup> As defined in § 15-1A-01 of the Insurance Article

<sup>2</sup> As defined in § 15-1A-01 of the Insurance Article

(ii) is listed on the Immunization Schedules of the Centers for Disease Control and Prevention for routine use;

(3) with respect to infants, children, and adolescents, evidence-informed preventive care and screenings provided for in comprehensive guidelines supported by the Health Resources and Services Administration; and

(4) with respect to women:

(i) to the extent not provided in item (ii) of this item, preventive care and screenings as provided for in comprehensive guidelines supported by the Health Resources and Services Administration for purposes of § 2713(a)(4) of the federal Public Health Service Act; and

(ii) subject to § 15-826(c) of this title, contraceptive coverage as provided for in comprehensive guidelines supported by the Health Resources and Services Administration for purposes of § 2713(a)(4) of the federal Public Health Service Act.

*Braidwood Management* enjoins the federal government from enforcing recommendations made by the US Preventive Services Task Force (PSTF) on the ground that PSTF lacked the legal authority to establish actionable standards under the US Constitution. The opinion also concludes, separately, that an employer may refuse to cover certain preventative services (such as PrEP) on the ground of religious belief. Those conclusions and the injunction against the federal government do not impact Maryland statutory law and the MIA will enforce the recommendations of PSTF in conformity with § 15-1A-10.

Any questions about this Bulletin may be directed to Mary Kwei in the Market Regulation and Professional Licensing Division at 410-468-2113.

**KATHLEEN A. BIRRANE**  
Commissioner

**By: Signature on Original**

Mary M. Kwei  
Associate Commissioner