Are Weight-Loss Drugs Subject to the ACA Preventive Health Services Mandate?

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QUESTION: We understand that our company's major medical plan must cover certain screenings and behavioral interventions for obesity as preventive health services. Are weight-loss drugs such as Ozempic subject to the preventive health services mandate?

ANSWER: Although several obesity and weight-management items and services are subject to the Affordable Care Act (ACA) preventive health services mandate, drugs such as glucagon-like peptide 1 (GLP-1) agonists (including Ozempic) that may be prescribed for weight loss are not currently included in the mandate. HHS's website lists the preventive items and services that must be covered, which are based on recommendations and guidelines from a number of organizations, including the U.S. Preventive Services Task Force (USPSTF) and Health Resources and Services Administration (HRSA). The ACA requires non-grandfathered, nonexcepted group health plans to provide coverage for specified items and services without cost-sharing when they are delivered by in-network providers.

As you note, coverage of screenings for obesity in adults is required because it is currently listed by the USPSTF as a recommended preventive service. The USPSTF also recommends specific behavioral interventions for weight management for adult patients based on body mass index, including weight-loss goal setting and strategizing about how to maintain lifestyle changes. And HRSA recommends certain counseling for midlife women with normal or overweight body mass index to maintain weight or limit weight gain. Weight-loss drugs are not included in the USPSTF or HRSA preventive services guidelines.

Even though coverage is not required as a preventive service, keep in mind that small group market plans may be required to cover certain weight-loss drugs as essential health benefits. And an exclusion of drugs prescribed for weight loss may fail to comply with other state mandates and federal laws, including HIPAA (e.g., because it is not applied to all similarly situated individuals or is directed at individuals based on a health factor) and the ADA (e.g., because it makes disability-based distinctions).

For more information, see EBIA's Group Health Plan Mandates manual at Sections XIV.C ("Required Preventive Health Services Coverage") and XX.E ("Exclusions and Limitations that Raise Potential ADA Issues"). See also EBIA's Health Care Reform manual at Sections XII.C ("Coverage of Preventive Health Services") and XIV.F("Comprehensive Health Coverage Requirement (Essential Health Benefits Package)—Applicable Only in the Individual and Small Group Markets") and EBIA's HIPAA Portability, Privacy & Security manual at Section XI.C ("Nondiscrimination Rules for Eligibility and Benefits").

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