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Implementation of tobacco cessation coverage under the Affordable Care Act: Understanding how private health insurance policies cover tobacco cessation treatments

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EXECUTIVE SUMMARY

In 2010 the Obama Administration and Congress took a major step through the Affordable Care Act (ACA) to address the significant human life and financial costs of tobacco use in America by requiring insurance companies and employers to cover tobacco cessation treatment. This report focuses on a new consumer protection provision under the ACA that requires individual and group health insurance to cover these treatments.

Tobacco use is the leading cause of preventable death in the United States, killing more than 400,000 Americans and costing the nation $193 billion annually in direct medical costs and productivity losses. Nicotine addiction is treatable, and evidence suggests that most smokers (nearly 70 percent) want to quit and that covering treatment improves the chances that a person will quit smoking. According to the U.S. Public Health Service Clinical Practice Guideline on Treating Tobacco Use and Dependence:

- Tobacco cessation treatments help people quit smoking.
- Participation rates for treatment programs are higher when there is no cost-sharing.
- Combining counseling with tobacco cessation medications is more effective than using one type of treatment alone.
- Quit rates are higher when health insurance covers tobacco cessation treatments.

Additional studies have looked at the cost of tobacco cessation treatment and the resulting cost savings to both private employers and state programs, finding significant short-term and long-term savings.

The ACA requires all new private health insurance plans to cover services recommended by the U.S. Preventive Services Task Force (USPSTF) with no cost-sharing. These recommendations include tobacco cessation treatments. The USPSTF recommends that clinicians ask adults about tobacco use and provide interventions for those who use tobacco products, with pregnancy-tailored counseling for pregnant women who smoke. The USPSTF has found that longer counseling sessions improve quit rates and combining counseling with medication is more effective at increasing cessation rates than either therapy used alone. FDA-approved medication effective for treating tobacco dependence in nonpregnant adults includes several forms of nicotine replacement therapy (gum, lozenge, transdermal patch, inhaler and nasal spray), sustained-release bupropion, and varenicline.

The report examines how the tobacco cessation benefit is working under the new law. To understand how the regulated community has responded to the new coverage requirements, researchers selected 39 insurance contracts for a comprehensive analysis. These policies were being sold in six states (Florida, Kentucky, Nevada, New Jersey, Oregon and South Dakota). States were selected based on population, regional diversity, pre-ACA requirement for insurers to cover tobacco cessation programs, prevalence of tobacco use, and lung cancer rates. Thirty-nine contracts included:

- twelve individual market health insurance contracts;
- eighteen small group market health insurance contracts, six of which qualify as a potential benchmark plan (state specified minimum benefit and treatments required to be covered under the ACA);
- six state employee benefit plans (also could be chosen as a benchmark); and
- three federal employee benefit plans (two of which could be chosen as a benchmark).

Researchers analyzed the full insurance contract to determine what is covered, limitations and exclusions for coverage. Researchers also obtained formularies to identify tobacco cessation prescription drugs on the formulary. Analysis included reviewing contract provisions referencing tobacco cessation as a covered benefit and USPSTF preventive care recommendations as covered benefits; exclusions; prerequisites to receiving tobacco cessation treatment; cost-sharing requirements; limitations or restrictions to coverage; and restrictions on types of providers who can be reimbursed for tobacco cessation treatment. To understand the scope of coverage, researchers focused on type of counseling (individual, phone, group) and medications (prescription drugs, over-the-counter drugs (OTCs).

Contract Analysis

In reviewing insurance contracts, researchers found significant variation in how private health insurance coverage works for tobacco cessation treatment. Some insurance contracts have provisions that appear to exclude tobacco cessation benefits from coverage altogether, or conflicting provisions that make the scope of the benefit unclear. Contracts are ambiguous on medical necessity determinations and other potential restrictions to accessing covered treatments. Some are not clear whether there is cost-sharing for tobacco cessation treatment and prescription medication, creating uncertainty whether consumers can receive benefits required under the ACA without cost-sharing.

None of the 39 contracts analyzed did all of the following:

- stated clearly that tobacco cessation treatment was a covered benefit (without general exclusions);
- provided coverage for individual, group and phone counseling, and FDA approved tobacco cessation medication;
- provided tobacco cessation treatments by in-network providers with no cost-sharing; **and**
- provided access to treatment without prerequisites such as medical necessity or health risk assessment.

Coverage of Tobacco Cessation Treatments

The insurance contracts are not clear on whether tobacco cessation is a covered benefit. While 36 of the 39 analyzed insurance contracts indicate they are providing coverage for tobacco cessation or are providing coverage consistent with the USPSTF recommendations, 26 of these contracts also included language excluding tobacco cessation from coverage entirely or partially. For example, one contract states:

> Preventive adult wellness Services are covered under your plan. For purposes of this benefit, an adult is 17 years or older. In order to be covered, Services shall be provided in accordance with prevailing medical standards consistent with: 1. evidence-based items or Services that have in effect a rating of 'A' or 'B' in the current recommendations of the U.S. Preventive Services Task Force established under the Public Health Service Act.

However, under the "what is not covered?" section, the same contract states:

> Smoking Cessation Programs including any Service to eliminate or reduce the dependency on, or addiction to, tobacco, including but not limited to nicotine withdrawal programs and nicotine products (e.g., gum, transdermal patches, etc.).

Some contracts use exclusionary language that makes it difficult to determine what is actually covered for tobacco cessation. For example, one contract states:

> We cover tobacco use cessation services. For the purpose of this provision, "tobacco use cessation" means services that follows the United States Public Health Service guidelines for tobacco use cessation, including education and medical treatment components designed to assist a person in ceasing the use of tobacco products.

In the exclusions section, the same contract states:

> Except as specifically provided in this Policy, We do not cover treatment of tobacco addiction and supportive items for addiction to tobacco, tobacco products or nicotine substitutes.

As a result of conflicting contract language, it is nearly impossible to determine with certainty whether tobacco cessation treatment is a covered benefit. Conflicting contract language may mean that a company did not carefully review contracts to delete exclusions for tobacco cessation treatment after updating the contracts for ACA compliance, or this could mean that the issuer is intentionally not complying with the ACA. Even if the issuer no longer uses the exclusion in the contract to deny benefits for tobacco cessation, it would be difficult for a person to figure out whether tobacco cessation treatment is a covered benefit, which could discourage him or her from using these treatments.

Scope of Coverage: Lack of Specificity

Due to the lack of specificity in many contracts it is nearly impossible to figure out what benefits a consumer has coverage for. Some policies cover all types of counseling – individual, phone and group – while some only cover individual counseling but not phone or group counseling, and yet others cover individual and group but not phone counseling. While some contracts specifically state that individual, group and phone counseling are or are not covered, many contracts do not provide enough details with respect to type of counseling covered:

- Seventeen policies specifically included individual counseling as a covered benefit, four excluded it and 16 referenced the recommendations of the USPSTF without detail on whether individual counseling was covered.
- Eleven policies specifically included phone counseling as a covered benefit, 10 excluded it, and 16 referenced recommendations of the USPSTF without detail on whether phone counseling was covered.
- Seven policies specifically included group counseling as a covered benefit, 10 excluded it, and 20 referenced the recommendations of the USPSTF without detail on whether group counseling was covered.

Significant variation in how health insurance coverage works for tobacco cessation treatment makes it unwise to make any assumptions about scope of coverage when contracts lack detail. Without additional detail, a reference to covering USPSTF recommendations is not adequate to accurately convey to a consumer what specific treatments are covered.

It is also difficult to determine what if any prescription or OTC medication coverage is available for tobacco cessation due to either general references to such benefits, exclusions for some of these benefits,

or conflicting contract language. There is wide variation in how and when prescription and over-the-counter medications are covered and what is covered – patches, gum and drugs:

- Twenty-three of 39 contracts included coverage for prescription drugs for tobacco cessation and 15 contracts did not cover prescription drugs. One contract was not clear on whether prescription drugs were covered.
- Coverage for OTC medication also varied greatly. Twelve of 39 contracts specifically covered OTC for tobacco cessation and 24 contracts excluded OTCs. Three of 39 contracts referenced the USPSTF recommendations without detail on whether OTCs was covered. Of the 12 contracts covering OTC benefits, eight required a prescription for OTC medication.

Scope of Coverage: Not Consistent with USPSTF Recommendations

Most policies did not list as a covered benefit all categories of treatments found to be effective by the USPSTF. Only 10% (4 of 39) of contracts reviewed included as a covered benefit individual counseling, phone counseling, group counseling, prescription drugs and OTCs. In addition to potential confusion around what is covered, consumers may find that a treatment method that their physician recommends and is found to be effective by the USPSTF is not covered by the plan.

Cost-sharing

Health insurance issuers also had different approaches to cost-sharing for tobacco cessation counseling provided by in-network providers:

- Seven of the 36 contracts that clearly covered counseling required cost-sharing for tobacco cessation counseling by in-network providers, appearing to conflict with ACA coverage requirements for no cost-sharing for preventive benefits.
- Six of the 24 contracts that covered prescription drugs applied cost-sharing requirements for these drugs. Of the 24, one contract was not clear about covering prescription drugs for tobacco cessation; however, all prescription drugs under this contract included cost-sharing.

Access Restrictions

In many contracts, access to tobacco cessation treatment is limited through medical necessity requirements, pre-existing condition exclusions, requirements to participate in a formal program, and, in one case, a requirement for a health risk assessment to access prescription drugs and OTC medications for tobacco cessation. These limitations may mean that in some cases smokers would not be able to access treatment. For example, while the application of preexisting condition exclusions will no longer be allowed beginning in 2014, insurers are currently allowed to exclude coverage for a preexisting condition. Absent federal guidance on the use of preexisting condition exclusion periods for smokers, people trying to quit may not be able to access coverage until the exclusion period for their preexisting condition ends.

Requirements for participation in formal programs may deter some consumers from accessing cessation treatment. While the incentive of a formal program that provides enhanced benefits not otherwise covered is not problematic, the required participation as a prerequisite to accessing basic benefits required by the ACA could be a barrier for consumers.

The general requirement for medical necessity determinations for tobacco cessation treatment could also work to inappropriately restrict access to cessation treatments for smokers. While medical necessity determinations may be a good tool to ensure appropriate access to treatments and to address overuse and unnecessary expenses, medical necessity determinations make little sense for preventive benefits that are often under-used.

Understanding the Significant Variations in Coverage

To better understand the reasons for these variations, researchers interviewed current and former staff from different insurance companies and staff at a tobacco cessation treatment company. Researchers found the variations in coverage for tobacco cessation treatment are mostly due to cost considerations. A former medical director noted that because turnover is so high (25-30% per year) in the commercial market (private health insurance), health plans have a disincentive to cover prevention and wellness that shows cost-savings over the long-term because they will not actually realize those cost savings.

Recommendations

These findings raise serious questions about whether consumers have access to all tobacco cessation services required by the ACA and that the USPSTF has found to be effective. Conflicting and confusing contract language also may leave consumers uncertain if tobacco cessation treatments are covered, which could discourage them from seeking these treatments.

We recommend that federal and state regulators issue further guidance to address problems in insurance contracts affecting coverage for tobacco cessation treatment.

- Regulators should require issuers to have a clear statement in health insurance policies that says that treatment for tobacco cessation is a covered benefit. Furthermore, policies should specifically state which treatments are covered and that cost-sharing does not apply.
- Regulators should provide guidance on permissible and prohibited limitations to coverage under the ACA, including number of covered quit attempts, medical necessity determinations, program participation and exclusionary language.
- Federal regulators should provide model contract language for this benefit, which would help address ambiguities and uncertainties over what benefits are available to consumers and how to access such benefits.

We also recommend that insurers reexamine their products and that states provide an expedited approval process for insurers that need to correct misleading or ambiguous contracts.

Absent detailed guidance, huge variation in benefits will continue to be a problem, and tobacco users' access to tobacco treatment will continue to be limited. Finally, absent additional steps by federal or state regulators, the promise of reducing tobacco use – saving lives and saving health care resources – will not be realized fully.

Implementation of tobacco cessation coverage under the Affordable Care Act: Understanding how private health insurance policies cover tobacco cessation treatments

The United States spends billions of dollars each year on tobacco-related medical conditions. Tobacco use continues to be the leading preventable cause of death in the United States and more than 8 million Americans are currently living with a tobacco-caused disease. In 2010, the Obama Administration and Congress took a major step through the Affordable Care Act (ACA) to address the costs of this disease and its adverse impact on people. This report focuses on a new consumer protection provision under the ACA that requires individual and group health insurance to cover tobacco cessation treatments.

The report examines how the tobacco cessation benefit is working under the new law. In reviewing insurance contracts, researchers found significant variation in how private health insurance coverage works for tobacco cessation treatment. Some insurance contracts have provisions that appear to exclude tobacco cessation benefits from coverage altogether or conflicting provisions that make the scope of the benefit unclear. Even when it is clear that tobacco cessation is a covered benefit, it is not clear what treatments are covered. For example, there is great variation in whether and what type of counseling – group or individual counseling, in person or by phone – is covered. There is also variation in how and when prescription and over-the-counter medications are covered and what is covered – patches, gum, drugs. Contracts are ambiguous on medical necessity determinations and other potential restrictions to accessing covered treatments. Some are not clear if there is cost-sharing for tobacco cessation treatment and prescription medication, creating uncertainty about whether consumers can receive benefits required under the ACA without cost-sharing.

Part I of the report provides background information on economic and medical burdens related to tobacco use and highlights clinical evidence related to tobacco cessation treatments. Part II discusses the ACA's requirements including tobacco cessation treatment as a preventive care benefit required to be covered at no cost-sharing, permissible premium charges for smokers, and wellness programs with financial incentives. Part III compares and analyzes private health insurance policies sold in six states in the individual and small group markets. It also looks at how coverage works for federal employees and for state employees in selected states. Part IV concludes by recommending further federal guidance to address the significant variation in tobacco cessation coverage by insurers and to ensure that consumers are afforded access to the full range of clinically recommended tobacco cessation treatments required by the ACA. Guidance would also greatly benefit the regulated community seeking to comply with the new requirements.

PART I: Background: Impact of Tobacco Use and Evidence Related to Cessation Treatments

In the United States, there are approximately 45.3 million smokers and nearly one in five adults smoke.[1] Tobacco use is the leading cause of preventable death in the United States, killing more than 400,000 Americans each year.[2] Tobacco use is responsible for 30% of all cancer deaths,[3] one in five deaths from heart disease,[4] and more than 80% of all COPD deaths.[5]

Tobacco use annually costs the nation $193 billion in direct medical expenses and productivity losses, with $96 billion in health care expenditures alone.[6] This amounts to a yearly cost of $10.47 in direct medical costs and lost productivity for every pack of cigarettes sold in the United States.[7]

While the cost to human life and the economic burdens of tobacco use are significant, nicotine addiction is treatable. In fact, there is significant evidence that tobacco cessation treatments (both counseling and medications) help people stop smoking and that providing coverage for treatment improves the chances that a person will quit smoking. There is also evidence that tobacco cessation programs could lead to significant savings in health care spending. Comprehensive cessation treatments are among the most cost-effective and efficacious preventive services available. In addition, there is evidence that most tobacco users want to quit. According to the CDC, nearly 70% of smokers want to quit and slightly more than half have tried to quit in the past year.[8]

Tobacco cessation treatment and potential cost savings

Tobacco dependence is a chronic disease that requires repeated intervention and multiple attempts to quit.[9]

According to medical evidence and studies examined by the U.S. Tobacco Use Dependence Guideline Panel – a group of tobacco cessation experts charged with identifying effective tobacco dependence treatments and practices for a U.S. Public Health Service-sponsored Clinical Practice Guideline[10]:

- **Tobacco cessation treatments help people to quit smoking:** Studies show that only 3-5% of smokers are able to quit without any assistance. According to the PHS Clinical Practice Guideline, *Treating Tobacco Use and Dependence: 2008 Update*, tobacco use treatments can significantly increase long-term cessation rates.[11]
- **Participation rates are higher when there is no cost-sharing for treatment programs:** The U.S. Public Health Service found that when cost-sharing is eliminated, participation in tobacco cessation programs increases substantially.[12]
- **Combining counseling with tobacco cessation medications is more effective than using one type of treatment alone:** The *Treating Tobacco Use and Dependence: 2008 Update* indicates that while the use of medication and counseling are each effective on their own, they are more effective when used in combination.[13] The panel based its conclusion on a review of 18 studies, showing that providing two or more counseling sessions in addition to medication significantly enhanced treatment outcomes, and more than eight sessions produced the highest abstinence rates.[14] Nine studies also supported adding medication to counseling for enhanced treatment outcomes.[15] The panel identified seven medications as being effective: bupropion SR, nicotine gum, nicotine inhaler, nicotine lozenge, nicotine nasal spray, nicotine patch and varenicline.[16]
- **Quit rates are higher when health insurance covers tobacco cessation treatments:** According to the U.S. Public Health Service Clinical guidelines, tobacco cessation treatment is more successful when it is included in health plan benefits.[17]

The United States Preventive Services Task Force (USPSTF), discussed in Part II, also evaluated the evidence of the effectiveness of tobacco cessation treatments and gave them an A, its highest grade.

A 2006 Milliman study looked at the cost of tobacco cessation treatment and short-term cost savings to private employers, and concluded that employers would see substantial savings resulting from coverage for tobacco cessation treatment programs. Milliman estimated the cost for six levels of treatment for tobacco cessation. The minimal option (coverage for a quit-line and self-help booklet) would cost $0.02 per member per month (PMPM). The highest option (comprehensive, high-intensity treatment including Nicotine Replacement Therapy and bupropion coupled with therapy) would cost $0.45 PMPM.

The immediate annual savings measured in the short-term were significant. Milliman researchers found, "For each individual who quits smoking, the average annual medical and life insurance claims incurred by an employee would decrease" by a total of $192 and concluded that "[s]moking cessation programs cost little and provide a measurable significant benefit, even when the benefit is measured only in terms of short term direct health care cost savings."[18] Specifically, researchers estimated $153 savings related to coronary heart disease and stroke, $22 savings for childhood asthma and other childhood respiratory conditions, $9 savings for low birth weight babies, $5 savings for childhood ear infections, and $3 savings for adult pneumonia.

The Massachusetts Medicaid plan (MassHealth) is a recent example of a successful tobacco cessation program. In 2006, MassHealth initiated a program to provide tobacco cessation treatments (tobacco cessation medications and counseling) to smokers. According to a 2010 study of the program, 37% of smokers had enrolled in the smoking treatment program and the smoking rate among MassHealth beneficiaries declined by 26% in the first 2.5 years.[19]

The MassHealth program also illustrates that tobacco cessation treatment can result in medical cost savings. According to the 2010 study of this program, there was a 46% decrease in hospitalizations for heart attacks and a 49% decrease in hospitalizations for cardiovascular disease among benefit users.[20] The study's authors estimated that for every $1 in program costs, the MassHealth program received an estimated medical savings of $3.12, a return on investment of $2.12 for every dollar spent.[21] Such results show that tobacco cessation programs can lead to dramatic reductions in smoking rates and tobacco-related hospitalizations in a relatively short period of time, thereby reducing overall health expenditures.

PART II: The Affordable Care Act

Policymakers have recognized that coverage of tobacco cessation services by private health insurance can help people. Nine states require private insurance to cover tobacco cessation treatments – Colorado, Illinois, Maryland, New Jersey, New Mexico, North Dakota, Oregon, Rhode Island and Vermont.[22]

In 2010, the Affordable Care Act (ACA) required all new private health insurance plans to cover—with no cost-sharing—preventive services found to be effective by the United States Preventive Services Task Force (USPSTF). The USPSTF recommendations are made by an independent group of national experts in prevention and evidence-based medicine who conduct scientific evidence reviews of a broad range of clinical preventive health care services. The USPSTF gave tobacco cessation interventions an A grade, meaning there is high certainty that there is substantial benefit to providing the services.

Beginning in 2014, "preventive and wellness services and chronic disease management" will have to be provided as an essential health benefit by all non-grandfathered[23] plans in the individual and small group markets, including plans available inside and outside a Health Insurance Exchange.

Affordable Care Act and the United States Preventive Services Task Force

The ACA requires preventive benefits, including tobacco cessation treatment, to be covered with no cost-sharing.[24] Cost-sharing includes co-payments, co-insurance and deductibles. Beginning September 23, 2010, non-grandfathered group coverage and non-grandfathered individual health insurance policies must cover "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 (USPSTF)."[25]

The USPSTF evaluated relevant studies on the effectiveness of tobacco cessation treatments (tobacco cessation medications and counseling) and detailed their assessment of the evidence in their recommendation statement. Excerpts from the USPSTF recommendation statement are provided below:

> In nonpregnant adults, the USPSTF found convincing evidence that smoking cessation interventions, including brief behavioral counseling sessions (<10 minutes) and pharmacotherapy delivered in primary care settings, are effective in increasing the proportion of smokers who successfully quit and remain abstinent for 1 year. Although less effective than longer interventions, even minimal interventions (<3 minutes) have been found to increase quit rates.
>
> The USPSTF found convincing evidence that smoking cessation decreases the risk for heart disease, stroke, and lung disease.
>
> In pregnant women, the USPSTF found convincing evidence that smoking cessation counseling sessions, augmented with messages and self-help materials tailored for pregnant smokers, increase abstinence rates during pregnancy compared with brief, generic counseling interventions alone. Tobacco cessation at any point during pregnancy yields substantial health benefits for the expectant mother and baby. The USPSTF found inadequate evidence to evaluate the safety or efficacy of pharmacotherapy during pregnancy." [26]
>
> Various primary care clinicians may deliver effective interventions. There is a dose-response relationship between quit rates and the intensity of counseling (that is, more or longer sessions improve quit rates). Quit rates seem to plateau after 90 minutes of total counseling contact time. Helpful components of counseling include problem-solving guidance for smokers (to help them develop a plan to quit and overcome common barriers to quitting) and the provision of social support as part of treatment. Complementary practices that improve cessation rates include

> motivational interviewing, assessing readiness to change, offering more intensive counseling or referrals, and using telephone 'quit lines'." [27]
>
> Combination therapy with counseling and medications is more effective at increasing cessation rates than either component alone. Pharmacotherapy approved by the U.S. Food and Drug Administration and identified as effective for treating tobacco dependence in nonpregnant adults includes several forms of nicotine replacement therapy (gum, lozenge, transdermal patch, inhaler, and nasal spray), sustained-release bupropion, and varenicline.[28]

While there has been regulatory guidance on many provisions of the ACA from regulators implementing the federal law, including guidance for preventive care benefits, there are limited details in the area of tobacco cessation treatments. In July 2010 the federal government issued interim final rules for new preventive care benefits that insurers have to include in private health insurance beginning in September 2010.[29] The rule states:

> Section 2713 of the PHS Act, as added by the Affordable Care Act, and these interim final regulations require that a group health plan and a health insurance issuer offering group or individual health insurance coverage provide benefits for and prohibit the imposition of cost-sharing requirements with respect to: 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 (Task Force) with respect to the individual involved….
> The complete list of recommendations and guidelines that are required to be covered under these interim final regulations can be found at http://www.HealthCare.gov/center/regulations/prevention.html. Together, the items and services described in these recommendations and guidelines are referred to in this preamble as "recommended preventive services"….

The link is to the list of A and B services. For tobacco use counseling and interventions for non-pregnant adults, "The USPSTF recommends that clinicians ask all adults about tobacco use and provide tobacco cessation interventions for those who use tobacco products." For pregnant women, "The USPSTF recommends that clinicians ask all pregnant women about tobacco use and provide augmented, pregnancy-tailored counseling to those who smoke."[30]

In the economic impact analysis, federal regulators assumed coverage for specific treatments consistent with the USPSTF guidelines. In addition, federal regulators cited a study, "Repeated Tobacco-use Screening and Intervention in Clinical Practice: Health Impact and Cost Effectiveness,"[31] discussing the potential cost-savings related to tobacco use screening and intervention. The rule does not provide additional details specific to the scope of tobacco cessation treatments.

One federal agency, the U.S. Office of Personnel Management (OPM) has issued detailed guidance to insurers providing health insurance coverage to federal workers and their dependents. The guidance from OPM reflects its interpretation of the ACA's requirement to provide tobacco cessation coverage, and only applies to health coverage provided to federal employees and dependents. OPM instructed insurers to cover tobacco cessation programs without cost-sharing and without annual or lifetime dollar limits. Insurers must cover at least two quit attempts per year with up to four tobacco cessation counseling sessions of at least 30 minutes each, including proactive telephone counseling, group counseling and individual counseling.[32] In addition, insurers must cover over-the-counter (OTC) and prescription drugs approved by the FDA to treat tobacco dependence for smoking cessation. Insurers must cover the following: Nicotrol NS (nasal spray), nicotrol inhaler, Chantix, Zyban, bupropion hydrochloride, Nicorette Gum/DS Gum, Habitrol Transdermal film, Nicoderm CQ Transdermal system, Commit lozenge, and Nicorette lozenge.[33]

Essential Health Benefits

In addition to requirements in effect since September 2010 to cover tobacco cessation treatment as a preventive service, the ACA establishes additional general minimum standards for coverage sold beginning in 2014. All new individual and small group health insurance coverage beginning in 2014 will have to cover a minimum benefits package that includes 10 essential categories of care called Essential Health Benefits (EHB).[34] One of these categories is "preventive and wellness services and chronic disease management." All non-grandfathered plans in the individual and small group markets, including plans available inside and outside a Health Insurance Exchange, will be required to cover the EHB.

Specific minimum benefits and treatments required to be covered will be based on the "EHB benchmark" plan a state chooses (state election to be made by early fall 2012).[35] For example if the benchmark plan covers prescription but not over-the-counter medication for tobacco cessation, then all individual and small group health insurance policies will be required to cover prescription but not over-the-counter medication for tobacco cessation. A benchmark plan, however, may not be consistent with the recommendations of the USPSTF. As discussed below, researchers' review of potential benchmark plans indicates that some have coverage exclusions for certain tobacco cessation treatments, do not clearly identify specific benefits such as individual, group, and phone counseling as covered, and have other problematic contract provisions. As states select a benchmark, it will be important to ensure that the minimum required benefits are consistent with the preventive care benefits already in effect under the ACA.

Other Standards

Expanding private health insurance coverage of tobacco cessation is intended to enhance access to treatments that have proven to be effective at giving tobacco users the best chance of quitting successfully. Adequate coverage of tobacco cessation is also important because two other provisions of the ACA could increase health care costs for tobacco users. First, the ACA allows insurers to charge tobacco users higher premiums. In 2014, insurers selling individual health insurance coverage and small group health insurance coverage may charge smokers a 50% higher rate than they charge to non-smokers. Second, the ACA allows insurers and employers to offer financial incentives to participate in wellness programs. If the wellness program requires an individual to satisfy a standard that is based on a health factor, insurers and employers could offer a reward of up to 30% of the cost of employee-only coverage. The reward may include premium discounts or rebates, waivers of cost-sharing requirements, and absence of a surcharge. Under the ACA, federal regulators can increase the reward to 50% if appropriate.

PART III: Analysis of Private Health Insurance Contracts

To understand how private health insurance policies cover tobacco cessation treatments under the new ACA requirements, researchers reviewed and analyzed health insurance policies sold in the individual and small group markets in selected states. Researchers selected different types of products for an extensive review.[36] Selected policies are not a sampling of all products sold because the goal was not to measure prevalence of particular benefits but instead to understand how coverage works and the variation in coverage. Private large group products were excluded because generally such products are not public.

State Selection

Researchers selected states based on several factors: state population, regional diversity, a pre-ACA requirement for insurers to cover tobacco cessation programs, prevalence of tobacco use, and lung cancer rates. To achieve diversity, researchers selected the following six states: Florida, Kentucky, Nevada, New Jersey, Oregon and South Dakota. Initially, Texas was selected but due to state laws that consider insurance contracts confidential or proprietary, it was not possible to obtain copies of insurance contracts sold in Texas. Florida was added to ensure that policies sold in a large population market were included in the study.

Summary: Characteristics of Selected States

	Population (rank out of 50)[37]	Health insurers required to cover tobacco cessation treatment[38]	Adult cigarette use[39]	Lung & Bronchus cancer incident rates rank (highest to lowest)[40]
FL	18,801,310 (04)	No	17.1% (28)	23
KY	4,339,367 (26)	No	24.8% (2)	1
NV	2,700,551 (35)	No	21.3% (9)	21
NJ	8,791,894 (11)	Yes	14.4% (47)	34
OR	3,831,074 (27)	Yes	15.1% (43)	33
SD	814,180 (46)	No	15.4% (39)	41

Insurance Contracts Selection Process

To achieve diversity in types of products reviewed and to ensure that products were subject to the ACA's preventive care requirements, researchers used the following criteria for individual and small group products:

- HMO and PPO products;
- products from large and small market share insurers: market share information from publicly available sources[41];
- non-grandfathered status under the ACA: products that are required to include coverage for tobacco cessation treatment; and
- products actively sold in a market: products open for new enrollment.

Researchers worked with an insurance agent to verify that selected contracts were for products that were actually sold (not merely approved for sale). Researchers provided product names and details to the agent. Using a script developed by the research team, the insurance agent consulted with licensed agents in selected states about selected products. Based on interviews with agents, researchers identified certain contracts to exclude from the study because such policies were sold only through club membership, were no longer actively sold because they were replaced by newer products, or were no longer sold at all. For example, in Nevada, one policy was no longer marketed, and in Kentucky, two products (one in the individual market and one in the small group market) were not actively sold. Researchers did not review policies that are no longer sold.

In addition, researchers analyzed some products that may be selected as a benchmark by a state. Benchmark plans will define the scope of the essential health benefits package that in 2014 will be required to be included in policies sold in the individual and small group markets. Researchers analyzed one of the three largest small group plans, a state employee health benefit plan, and two of the largest federal employee health benefit plans.[42] Although allowed as an option, researchers did not include the largest HMO plan (non-Medicaid) in a state, due to lack of enrollment information data. To determine which plans may qualify as one of the largest small group plans in a state, researchers relied on information available through healthcare.gov.[43] Data on healthcare.gov is voluntarily submitted by insurers and may not be 100% accurate.[44] While many states have conducted their own research to identify small group plans with the largest enrollment, at the time researchers selected policies for this study, better and more accurate state data was not available. In July 2012, federal regulators released an updated list of largest small group plans. Six of the small group products analyzed here would qualify and could be selected as a benchmark plan in the state where such plans are sold.[45]

Obtaining copies of full insurance contracts from insurance departments

Researchers worked closely with state insurance regulators to obtain copies of full insurance contracts (including endorsements and riders). Regulators in Kentucky, Oregon, and Nevada provided copies of full contracts.[46]

In addition, researchers obtained contracts from state insurance department websites where filings were publicly available – in South Dakota, Florida and New Jersey. South Dakota uses the National Association of Insurance Commissioner's System for Electronic Rate and Form Filing (SERFF). Florida has its own on-line search system. New Jersey has standard contract language and makes contracts available on-line.[47] Researchers used the standard contract language, not company specific language, for policies sold in New Jersey.

Obtaining full insurance contracts for the study was difficult for a number of reasons. Generally insurers do not post full contracts on their websites. Not all states make filings publicly available. Even when states make contracts publicly available, in some states full contracts are not available because health insurance issuers are only required to submit amendments or endorsements when changing existing contracts. Existing contracts may not be available because they were approved for sale prior to on-line access or record retention laws for those contracts have expired.

Contract Analysis Approach

Researchers analyzed the full insurance contract to determine what is covered, limitations, and exclusions to coverage. Reviewing summaries would not have been sufficient because summaries do not provide the type of detail necessary to understand the scope of coverage and how coverage works. Researchers also obtained formularies to identify tobacco cessation prescription drugs on the formulary.

Researchers analyzed 39 contracts:

- twelve individual market health insurance contracts,
- eighteen small group market health insurance contracts, six of which qualify as a potential benchmark plan (to define the scope of benefits to be included in all small group and individual coverage sold beginning in 2014 in a state.) (In a state that chooses the contract included in this study as its benchmark, all new individual and small group policies will have to cover at least what this contract covers for tobacco cessation);
- six state employee benefit plans; and
- three federal employee benefit plans.

Number of insurance policies

	Individual Health Insurance Market	Small Group Health Insurance Market	State Government Employee Health Plan	Federal Employee Plan
Florida	1	2	1	-
Kentucky	1	3	1	-
Nevada	3	4	1	-
New Jersey	2	4	1	-
Oregon	3	3	1	-
South Dakota	2	2	1	-
TOTAL	**12**	**18**	**6**	**3**

Researchers included three HMO products and nine PPO products sold in the individual markets, and eight HMO products and ten PPO products sold in the small group market. Of the state employee contracts, four were HMOs and two were PPOs. Two of the federal policies were PPO policies and one was an HMO.

For contract analysis, researchers reviewed contracts and mandatory riders in their entirety. This included closely examining coverage limitations, exclusions, definitions and scope of the benefits. Researchers reviewed tobacco cessation treatment benefit language, scope of tobacco cessation benefits, prerequisite conditions to accessing the tobacco cessation benefits, eligibility restrictions and specific exclusions related to tobacco cessation treatments.

To understand what is covered, how it is covered and when it is covered, researchers focused on the following:

- Is tobacco cessation a covered benefit? Is there explicit language referencing tobacco cessation as a covered benefit? Are USPSTF general preventive care requirements referenced?
- When tobacco cessation is a covered benefit, are there specific tobacco cessation treatments excluded from coverage? Does the contract include tobacco cessation in its list of excluded benefits? Does the list of excluded benefits contradict contract language that specifically addresses the tobacco cessation coverage provision? Is the exclusion for benefits conditional?
- Are there prerequisites to receiving tobacco cessation treatment? Is medical necessity determination required? Is enrollment in a special program required? Is health risk assessment required? Is use of one treatment required before another will be covered?
- Do cost-sharing requirements – deductibles, co-payments and co-insurance – apply to tobacco cessation counseling provided by in-network providers? Do cost-sharing requirements apply to tobacco cessation prescription drugs? To OTCs?
- Is coverage limited to a specific number of quit attempts?

- Are there restrictions on types of providers who can be reimbursed for tobacco cessation treatment?
- Are there other restrictions or limitations, e.g., pre-existing condition exclusions, prior authorization?

To understand what specifically is covered by a policy, researchers focused on the following:

- Is individual counseling covered? Is there a limit on number of counseling sessions covered?
- Is phone counseling covered? Is there a limit on number of counseling sessions covered?
- Is group counseling covered? Is there a limit on number of counseling sessions covered?
- Are prescription drugs covered? Does the policy reference a formulary for tobacco cessation drugs? Is the formulary available on the company website?
- Are over-the-counter medications (OTCs) covered? Is a prescription required for OTC coverage?
- What specific nicotine-replacement tobacco cessation products are covered: Nicotrol,[48] nasal sprays, inhalers, gum, transdermal film/patches and lozenges?
- What specific tobacco cessation prescription drugs are covered: bupropion, Zyban, varenicline and Chantix?

Summary of Analysis

Federal law requires coverage for tobacco cessation treatment with no cost-sharing. Researchers' analysis of contracts found significant variation in how insurers are covering tobacco cessation treatments. Not all policies explicitly indicate that smoking cessation treatment is a covered benefit. Some contracts have provisions that appear to exclude tobacco cessation benefits altogether or conflicting provisions that make the scope of the benefit unclear. Even contracts that are clear about covering tobacco cessation treatment do not clearly specify what specific treatments are covered and whether cost-sharing or prerequisite requirements apply.

None of the 39 contracts analyzed:

- were clear about covering tobacco cessation treatment,
- provided access to treatment without prerequisites,
- provided benefits without cost-sharing; **and**
- provided coverage for individual, group, and phone counseling and FDA approved tobacco cessation medication.

Additionally, there is a wide range in types of treatments covered and whether there is coverage for prescription medication and over the counter tobacco cessation aids. Only 10% (or 4 of 39 policies) state that they cover individual, group and phone counseling and FDA approved tobacco cessation medication.

Below is a detailed summary of contract provisions and features in the 39 contracts analyzed for this study.

Coverage for Smoking Cessation

Most – 36 of 39 – health insurance contracts indicated that the policy covered smoking cessation. These either explicitly referenced smoking cessation treatment as a covered benefit, referenced coverage for the USPSTF preventive care recommendations, or had both a specific reference to smoking cessation treatment and coverage for USPSTF recommendations. Three contracts that did not indicate that tobacco cessation treatment is covered referenced covering preventive services; one defined such services narrowly. For purposes of the analysis, researchers assumed that the three contracts are intended to comply with the ACA and therefore included contract features in the analysis. In summary:

- Fourteen policies specifically referenced coverage for smoking cessation and did not reference the USPSTF recommendations – two individual policies, five small group policies (both benchmark and nonbenchmark), four state employee plans, and three federal employee plans.
- Eight policies referenced covering benefits as recommended by the USPSTF without specifically referencing tobacco cessation treatment as a covered benefit – two individual policies, three small group nonbenchmark policies, two potential benchmark policies, and one state employee plan.
- Fourteen policies included both a specific reference to tobacco cessation and USPSTF-recommended prevention services – six individual policies, three small group nonbenchmark policies, four potential benchmark policies, and one state employee plan.
- Three had neither a reference to the USPSTF nor a specific coverage provision for tobacco cessation treatment.

Summary: Tobacco Cessation Coverage

	Covered Benefit: Tobacco cessation	Covered Benefit: USPSTF recommendations	Both
Individual Health Insurance	2	2	6
Small Group Nonbenchmark	5	3	3
Small Group Potential Benchmark	0	2	4
State Employee Plan	4	1	1
Federal Employee Plan	3	0	0
TOTAL:	14	8	14

Most contracts – 26 out of 39 – had a significant problem, however. Contracts included either language excluding tobacco cessation treatment from coverage entirely or partially. Some of these 26 contracts had conditional exclusions contradicting the coverage provision (here called a "conditional exclusion"). For example, one contract covers tobacco cessation but also says: "Except as specifically provided in this Policy, We do not cover treatment of tobacco addiction and supportive items for addiction to tobacco, tobacco products or nicotine substitutes." In summary:

- seven contracts included tobacco cessation in the contracts' list of excluded benefits that directly contradicted the tobacco cessation coverage provision in the contract (here called general broad exclusions);
- twelve contracts had provisions excluding certain specific types of tobacco cessation treatments from coverage (here called specific exclusions);
- seven contracts had conditional exclusions.[49]

Summary: Exclusion Provisions in Contracts

	General Broad Exclusions	Specific Exclusions	Conditional Exclusions
Individual Health Insurance	2	5	3
Small Group Nonbenchmark	1	4	3
Small Group Potential Benchmark	3	1	1
State Employee Plan	1	1	0
Federal Employee Plan	0	1	0
TOTAL:	7	12	7

Selected examples of provisions for coverage of tobacco cessation treatments and general exclusions

Contract	Coverage provision language	General exclusion
FLSG1	… Services shall be provided in accordance with prevailing medical standards consistent with the recommendations … of the U.S. Preventive Services Task Force . . . established under the Public Health Service Act	What Is Not Covered? Smoking Cessation Programs including any Service to eliminate or reduce the dependency on, or addiction to, tobacco, including but not limited to nicotine withdrawal programs and nicotine products (e.g., gum, transdermal patches, etc.).
FLSE1	Covered Services: Preventive medical services will be as defined by the Patient Protection and Affordable Care Act, which includes: 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 Covered Services and Supplies means health care services and supplies, including pharmaceuticals and chemical compounds, which are medically necessary or preventive medical services and child health supervision services not otherwise excluded by the Health Plan.	**Limitations and Exclusions: - Smoking cessation programs,** including any service or supply to eliminate or reduce the dependency on or addiction to tobacco, including but not limited to nicotine withdrawal programs and Nicorette gum or patch. **Drugs That Are Not Covered:** Non-prescription smoking cessation aides (i.e., gums, patches, lozenges)
SDIN1	Preventive Health Services Coverage Medically Necessary preventive health services provided by a Participating Provider. The services covered under the preventive health services coverage provision are, at a minimum, compliant with: (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 (USPSTF). *Contract references website for additional details; below is from website*: Tobacco Use screening for all adults and cessation interventions for tobacco users.	**EXCLUSIONS - Section** Services, supplies, or medications furnished for the treatment of tobacco addiction or co-dependency.

	Tobacco Use screening and interventions for all women and expanded counseling for *pregnant* tobacco users.	
SDIN2	Preventive Care: You are covered for preventive care, such as … Medical evaluations related to nicotine dependence. Preventive items and services including … Items or services with an "A" or "B" rating in the current recommendations of the United States Preventive Services Task Force (USPSTF).	**Specifically EXCLUDED services include:** **Self-help or Self-cure Programs.** You are not covered for self-help or self-cure programs. This includes prescription products used for the purpose of smoking cessation. **Tobacco Dependency.** You are not covered for prescription drugs used to treat tobacco dependency.
SDSG1	Preventive Health Services Coverage …The services covered under the preventive health services coverage provision are, at a minimum, compliant with: (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 (USPSTF) *Contract references website for additional details; below is from website:* Tobacco Use screening for all adults and cessation interventions for tobacco users. Tobacco Use screening and interventions for all women and expanded counseling for *pregnant* tobacco users.	EXCLUSIONS Services, supplies, or medications furnished for diagnosis or treatment of tobacco addiction or co-dependency treatment.

Selected examples of provisions for coverage of tobacco cessation treatments and specific treatment exclusions

Contract	Coverage provision language	Specific Exclusion
KYSE1	…benefit for certain over-the-counter (OTC) nicotine replacement therapies. This program requires active participation in an approved tobacco cessation program. TELEPHONIC HEALTH COACHING AND WEB PROGRAM Covered persons can elect to receive a series of telephone calls from behavioral health specialists, health educator coaches or registered nurses regarding six main wellness topics including: physical activity, nutrition, stress management, weight management, back care and tobacco cessation. Covered persons can also reach out to their coach as often as needed.	LIMITATIONS AND EXCLUSIONS Treatment of nicotine habit or addiction, including, but not limited to hypnosis, smoking cessation products (except as covered and provided through the Pharmacy Benefit Manager), classes or tapes
NVIN2	In addition to the Covered Services listed under Preventive Healthcare Services in the AOC, the following Covered Services are added as preventive healthcare services: 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 ("USPSTF")	EXCLUSIONS: Anorexic agents (weight reducing drugs)… nicotine suppressants….
NVIN3	Preventive Care Services… This section describes covered services and exclusions for preventive care. Preventive Care Services in this section shall meet requirements as determined by federal and state law. Many preventive care	Therapies Exclusions — The following services, supplies or care are not covered: …Smoking cessation programs.

	services are covered by this policy with no deductible, co-payments or coinsurance from the Member as explained in your Summary of Benefits. Services with an "A" or "B" rating from the United States Preventive Services Task Force. … … Preventive Care Services also include the following services required by state and federal law: Preventive Care Services means care that is rendered to prevent future health problems for a member who does not exhibit any current symptoms. Coverage for benefits in this section shall meet or exceed those required by law.	Pharmacy Exclusions — The following services, supplies or care are not covered: Nicorette, nicotine patches, or other drugs containing nicotine or other smoking deterrent medications.
NVSG3	Preventive Care: Preventive care services in this section shall meet requirements as determined by federal and state law. Many preventive care services are covered by this certificate with no deductible, copayment or coinsurance from the member. These services fall under four broad categories as shown below: 1. Services with an "A" or "B" rating from the United States Preventive Services Task Force.	Limitations and Exclusions Smoking Cessation – We will not Pay for chewing gum, nicotine patches, or other preparations for smoking cessation. See Preventive Care for education programs.
ORSG3	TOBACCO CESSATION PROGRAMS: We cover tobacco use cessation programs. For the purposes of this provision, tobacco use cessation program means a program that follows the United States Public Health Service guidelines for tobacco use cessation, including education and medical treatment components designed to assist a person in ceasing the use of tobacco products.	EXCLUSIONS: Self-Help, Self-Care, Training or Instructional Programs Self-help, non-medical self-care, training programs, including: …instruction programs including those to learn how to stop smoking

Selected examples of provisions for coverage of tobacco cessation treatments and conditional exclusions

Contract	Coverage provision language	Conditional exclusion
ORIN1	PREVENTIVE CARE: if services are in accordance with age limits and frequency guidelines according to, and as recommended by, the United States Preventive Service Task Force (USPSTF) Provider counseling for tobacco use cessation and Generic Medications prescribed for tobacco use cessation.	**Tobacco Addiction Treatment** Except as specifically provided in this Policy, We do not cover treatment of tobacco addiction and supportive items for addiction to tobacco, tobacco products or nicotine substitutes.
ORIN3	TOBACCO USE CESSATION SERVICES: Coverage is provided for Members 15 years of age and older for participation in a PHP-approved, physician-recommended tobacco use cessation program that follows the United States Public Health Service guidelines. "Tobacco use cessation program" includes educational and medical treatment components, such as but not limited to counseling, classes, nicotine replacement therapy and prescription drugs designed to assist Members in ceasing the use of tobacco products. A list of PHP-approved programs is available online	**EXCLUSIONS** Services to modify the use of tobacco and nicotine, except as provided in section 6.7 or when provided as Extra Values or Discounts **Prescription Drug Exclusions** In addition to the Services not listed as covered in section 7, the following are specifically excluded from coverage under this Individual Contract. … 16. **Smoking cessation drug therapy**, including nicotine replacement therapy, except as provided in section 6.7.

KYSG1	Covered Benefits … 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.	**Other Exclusions** Services, supplies, drugs or other care related to the discontinuation of use of tobacco products unless you are enrolled in … approved behavioral smoking cessation program

Names of issuers and products were replaced with a classification code that is made up of the State abbreviation (FL, KY, NV, NJ, OR, or SD), market (SG = small group, IN = individual, SE = state employee), and number. Federal employee health plans are classified as FEDE followed by a number.

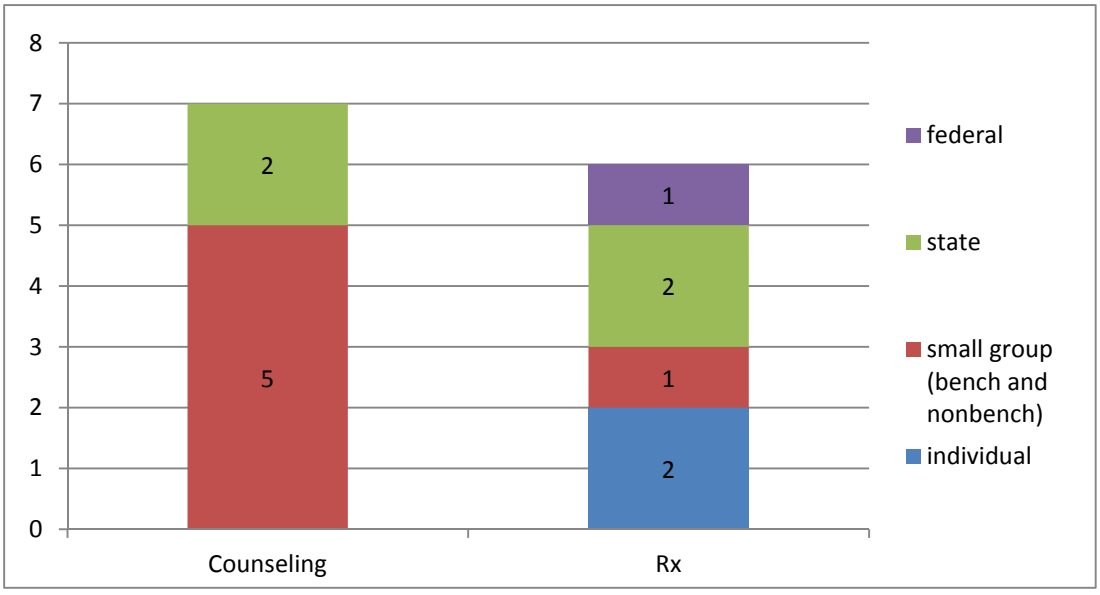
Rules to access treatment

Rules for accessing tobacco cessation benefits also varied. Twenty-four of 39 contracts had prerequisite requirements such as medical necessity requirements,[50] requirements to enroll in a program, and health risk assessments[51] prior to receiving tobacco cessation treatment. Specifically, seven individual contracts, eleven small group contracts, three state employee policies, and all three federal policies had prerequisites. Four contracts required enrollment in a program to receive benefits for tobacco cessation. Others made enhanced benefits available through programs, but did not require enrollment in a program for tobacco cessation benefits.

Cost-sharing

Health insurance issuers also had different approaches to cost-sharing for tobacco cessation counseling provided by in-network providers. Seven of the 36 contracts that clearly covered counseling[52] (five small group contracts and two state employee policies) required cost-sharing for tobacco cessation counseling by in-network providers, appearing to conflict with coverage requirements under the ACA for no cost-sharing for preventive benefits.

Summary: Number of contracts with cost-sharing requirements



Six of the 24 contracts that covered prescription drugs applied cost-sharing requirements for prescription drug coverage. Of the 24, one contract was not clear about covering prescription drugs for tobacco cessation, however, *all* prescription drugs under this contract included cost-sharing.

Specifically:

- two of twelve individual contracts had cost-sharing requirements while five did not have cost-sharing (five did not cover prescription drugs for tobacco cessation);
- one of twelve small group nonbenchmark contracts had cost-sharing requirements (four did not cover prescription drugs for tobacco cessation). The one small group nonbenchmark contract that did require cost-sharing was not clear with respect to prescription drug coverage for tobacco cessation; however, in this contract, *all* prescription drugs required a 50% coinsurance.
- of the six potential small group benchmark contracts, only one covered prescription drugs and did not have cost-sharing requirements;
- two of six state employee policies had cost-sharing requirements (one of them did not cover prescription drugs); and
- one of three federal policies had cost-sharing requirements ($5 or the retail pharmacy's usual and customary cost of the drug, whichever is less) (all three covered prescription drugs).

Summary: Cost-sharing requirements summary

	Individual Health Insurance	Small Group Nonbenchmark	Small Group Benchmark	State Employee Plan	Federal Employee Plan	Total
In-network services without cost-sharing	12	7	6	4	3	32
In-network with cost-sharing	0	5	0	2	0	7
No coverage for Rx	5	4	5	1	0	15
Rx Without cost-sharing	5	7	1	3	2	18
Rx With cost-sharing	2	1	0	2	1	6

Health insurance issuers had other contract provisions limiting coverage for tobacco cessation treatment. One federal contract had specific limitations on quit attempts. Thirty-one had additional restrictions and limitations including preexisting condition exclusions and prior authorization requirements.[53]

Individual Counseling

The policies also varied in their coverage for individual counseling. Seventeen policies specifically included individual counseling as a covered benefit, 4 excluded it, and 16 referenced the recommendations of the USPSTF.

Most contracts did not limit the number of counseling sessions that would be covered. Of the contracts covering individual counseling, none of the individual contracts, one small group contract, none of the state employee health plans, and one federal employee plan limited the number of counseling sessions covered.

Summary: Coverage for Individual Counseling

	Individual Health Insurance	Small Group Nonbenchmark	Small Group Benchmark	State Employee Plan	Federal Employee Plan	Total
Explicitly covered	6	5	1	2	3	17
Explicitly excluded	1	0	0	3	0	4
USPSTF referenced	4	6	5	1	0	16
Limits number of covered sessions	0	1	0	0	1	2

Phone Counseling

Coverage for phone counseling varied greatly among health insurance contracts. Eleven policies specifically included phone counseling as a covered benefit, 10 excluded it, and 16 referenced the recommendations of the USPSTF. One of the federal policies did not exclude phone counseling, but did not explicitly list it as a covered benefit and because there was no explicit language referencing the USPSTF recommendations, it was impossible to determine if phone counseling is covered. One individual plan's coverage for phone counseling was not clear due to a narrow definition of preventive services. Only two contracts – one small group and one federal employee plan – limited the number of phone sessions covered.

Summary: Coverage for Phone Counseling

	Individual Health Insurance	Small Group Nonbenchmark	Small Group Benchmark	State Employee Plan	Federal Employee Plan	Total
Explicitly covered	1	3	1	4	2	11
Explicitly excluded	5	4	0	1	0	10
USPSTF referenced	5	5	5	1	0	16
Limits on number of sessions	0	1	0	0	1	2

Group Counseling

Coverage for group counseling also varied greatly. Seven policies specifically included group counseling as a covered benefit, 10 excluded it, and 20 referenced the recommendations of the USPSTF.

Summary: Coverage for Group Counseling

	Individual Health Insurance	Small Group Nonbenchmark	Small Group Benchmark	State Employee Plan	Federal Employee Plan	Total
Explicitly covered	2	2	0	1	2	7
Explicitly excluded	2	3	0	4	1	10
USPSTF referenced	7	6	6	1	0	20
Limits on number of sessions	0	2	0	0	1	3

A few policies limited the number of group counseling sessions that would be covered. Two small group (nonbenchmark) policies and one federal employee plan had limits on the number of group counseling sessions covered.

Summary: Coverage of Counseling Services

	Individual Counseling				Phone Counseling				Group Counseling			
	Covered	TF	Excl	NC	Covered	TF	Excl	NC	Covered	TF	Excl	NC
Ind	6	4	1	1	2	5	4	1	2	7	2	1
Nonbench	5	6	0	1	3	5	4	0	2	6	3	1
Bench	1	5	0	0	1	5	0	0	0	6	0	0
State	2	1	3	0	4	1	1	0	1	1	4	0
Fed	3	0	0	0	2	0	0	1	2	0	1	0

Notes: "Ind": Individual health insurance; "Nonbench": small group policies that do not qualify as a potential benchmark plan; "Bench": small group policies that qualify as a potential benchmark plan; "State": State employee health plans; "Fed": federal employee benefit plans; "Covered": benefit is covered; "TF": contract references the USPSTF, however, there is no detail in the contract specific to what is covered; "Excl": benefit is excluded from coverage; "NC": not clear based on contract language.

Tobacco cessation medication

Few health insurance contracts covered prescription medications for tobacco cessation compared to coverage for counseling. Twenty-three of 39 contracts clearly included coverage for prescription drugs for tobacco cessation – seven individual, seven small group nonbenchmark policies, one potential small group benchmark policy, five state employee plans, and the three federal plans. One small group policy was not clear about covering tobacco cessation prescription drugs. And fifteen contracts did not cover prescription drugs – five individual policies, four small group nonbenchmark policies, five potential benchmark policies and one state employee plan.

Coverage for OTC medication also varied greatly. Twelve of 39 contracts specifically covered OTC for tobacco cessation – two individual policies, two small group nonbenchmark policies, one potential small group benchmark policy, four state employee plans and three federal employee plans. Three of 39

contracts referenced the USPSTF recommendations – two individual policies and one nonbenchmark small group policy. Of the 12 contracts covering OTC benefits, eight required a prescription for OTC medication. Twenty-four contracts excluded OTCs – eight individual, nine small group nonbenchmark, five potential benchmark plans and two state employee plans.

Summary: Coverage of Medications

	Prescription			OTC			
	Covered	TF	Not Covered	Covered	Rx Req	TF	Not Covered
Ind	7	0	5	2	2	2	8
Nonbench	7	0	4	2	1	1	9
Bench	1	0	5	1	0	0	5
State	5	0	1	4	3	0	2
Fed	3	0	0	3	2	0	0

Notes: "Ind": Individual health insurance; "Nonbench": small group policies that do not qualify as a potential benchmark plan; "Bench": small group policies that qualify as a potential benchmark plan; "State": State employee health plans; "Fed": federal employee benefit plans; "Covered": benefit is covered; "TF": contract references the USPSTF, however, there is no detail in the contract specific to what is covered; "Excl": benefit is excluded from coverage; "NC": not clear based on contract language.

Specific prescription medication included in contracts or on formularies, and coverage for OTC

Contracts included general language to describe coverage of tobacco cessation medication, referenced coverage for specific tobacco cessation prescription medication, or referenced a formulary or some combination of these. Twenty-four contracts stated that they cover tobacco cessation drugs (either prescription, OTC, or both) – seven individual, seven nonbenchmark small group, two benchmark small group, five state employee, and three federal employee plans.[54] Of these, 20 included language (either general or specific) regarding coverage of tobacco cessation medications or OTCs; and of the 20, four contracts specifically identified which prescription or OTC medication would be covered.[55] In addition, of the 20 contracts, eight also specifically referenced a formulary.[56]

Five individual contracts had general language for coverage; one of these also identified specifically which OTCs would be covered:

- "Prescription Drugs which have been approved by the U.S. Food and Drug Administration for management of nicotine dependence." (NJIN1)
- "Nicotine Replacement Therapy (NRT), including *gum & patches*, is covered as a part of this program." (KYIN1)
- "generic medications for tobacco use cessation according to, and as recommended by, the United States Preventive Services Task Force, when obtained with a Prescription Order." *(two contracts used the same coverage language* – ORIN1 and ORIN2*)*
- "Nicotine Replacement Therapy and prescription drugs designed to assist Members in ceasing the use of tobacco products." (ORIN3)

Three small group nonbenchmark contracts had similar general coverage language:

- "Nicotine Replacement Therapy and prescription drugs designed to assist Members in ceasing the use of tobacco products." (ORSG2)
- "tobacco use cessation medications when obtained with a Prescription Order." (ORSG3)
- "all smoking cessation and over-the-counter aids are covered in full." (KYSG3)

In addition, three standard New Jersey contracts had the following general coverage language:

- "Prescription drugs which have been approved by the U.S. Food and Drug Administration for management of nicotine dependence."

Two potential benchmark small group plans had general coverage language; one of these also identified specifically which OTCs would be covered:

- "tobacco use cessation medications when obtained with a Prescription Order." (ORSG1)
- "Nicotine Replacement Therapy (NRT), including *gum and patches*" (through a treatment program). (KYSG2)

Four state employee plans had general coverage language; one of these also specifically identified which prescription medication would be covered:

- "certain over-the-counter (OTC) nicotine replacement therapies." (KYSE1)
- "certain drugs that assist with Smoking Cessation." (NJSE1)
- "includes recommendations on and direct fulfillment of nicotine replacement therapy, if appropriate; and information and decision support for *bupropion or Chantix*, if appropriate." (ORSE1)
- "legend smoking cessation aids which are approved by the Plan Administrator." (SDSE1)

Two federal plans had general coverage language for tobacco cessation aids:

- "We cover over the counter (with a physician's prescription) and prescription smoking cessation drugs approved by the FDA." (FEDE2)
- "Covered medications and supplies: Prescription and over-the-counter tobacco cessation drugs approved by the FDA to treat tobacco dependence." (FEDE3)

One of the federal plans identified in the contract specific prescription drugs that would be covered:

- "The following medications are covered through this program: Generic medications available by prescription: [Bupropion]; Brand-name medications available by prescription: [Chantix, Nicotrol]…." (Bupropion, Chantix and Nicotrol listed as bullets under coverage provision) (FEDE1)

Summary: Specific Medication Listed in Contracts or on Formularies

	Nicotrol	Nasal Sprays	Inhalers	Gums	Transderm Film/patches	Lozenges	Bupropion/ Zyban	Varenicline/ Chantix
Individual	1	0	0	1	1	0	5	1
Nonbench	1	0	0	0	0	0	4	1
Bench	0	0	0	1	1	0	1	0
State	2	1	1	1	1	1	5	2
Federal	2	1	1	1	2	0	3	2

Of the individual contracts covering prescription drugs, formularies for one included Nicotrol, one listed gum, one listed transdermal film/patch, five specifically listed bupropion, and one listed Chantix.

Of the seven small group nonbenchmark contracts covering prescription drugs, one formulary specifically listed Nicotrol, four listed bupropion (one of which categorized bupropion as an anti-depressant), and one listed Chantix. One potential small group benchmark policy referenced bupropion.

Of the five state employee plans covering prescription drugs, two formularies listed Nicotrol, one of which listed nasal sprays, inhalers, gum, transdermal film/patch, and lozenges; five listed bupropion (one

of which was categorized as an anti-depressant), one listed Zyban, one listed varenicline and two listed Chantix.

Of the three federal plans, one formulary listed Nicotrol, one listed gum, and two listed transdermal film/patch; three formularies listed bupropion, two listed Zyban, two listed varenicline and two listed Chantix (one additionally listing Chantix and bupropion in the contract).

For coverage for OTCs, two individual contracts covered OTCs and two referenced the USPSTF recommendations; two small group contracts covered OTCs and one referenced the USPSTF recommendations; four state employee plans covered OTCs; and all three federal plans covered OTCs.

Discussion: Issues from Insurance Contract Analysis

Major issues with contracts:

- Difficult to determine if tobacco cessation treatments (counseling and medication) is covered due to *conflicting* coverage language in contracts
- Difficult to determine if tobacco cessation treatments (counseling and medication) is covered due to lack of specific coverage language in contracts
- Difficult to determine what counseling treatments – individual, group, and phone -- are covered for cessation
- Coverage inconsistent with USPSTF recommendations and cost-sharing inconsistent with the ACA
- Barriers to accessing benefits
- Difficult to determine if and which prescription drugs and OTC drugs and aids are covered

Conflicting contract language makes it difficult to determine whether tobacco cessation is a covered benefit

While many contracts assert that they are providing coverage for tobacco cessation or are providing coverage consistent with the USPSTF recommendations, some of those same contracts exclude tobacco cessation coverage altogether by listing tobacco cessation treatments among items excluded from coverage. There is also a problem with many contracts that reference the ACA's requirement to cover preventive services recommended by the USPSTF but do not cover all tobacco cessation treatments that the USPSTF found to be effective. The USPSTF recommends that clinicians ask all adults about tobacco use and provide tobacco cessation interventions for those who use tobacco products. For pregnant women, clinicians must ask and provide augmented, pregnancy-tailored counseling to those who smoke. It concludes that counseling (individual, group and phone-based) and the seven FDA-approved tobacco cessation medications (both prescription and over-the-counter) are effective.

Some contracts contain broad exclusions from coverage of any services, treatments, medication or other aids related to tobacco cessation that directly contradict other provisions in the contracts that state that tobacco cessation is a covered benefit, or contradict provisions that state that the USPSTF recommendations are covered.

For example, a contract states:

> Preventive adult wellness Services are covered under your plan. For purposes of this benefit, an adult is 17 years or older. In order to be covered, Services shall be provided in accordance with prevailing medical standards consistent with: 1. evidence-based items or Services that have in effect a rating of 'A' or 'B' in the current recommendations of the U.S. Preventive Services Task Force established under the Public Health Service Act.

Under the "what is not covered?" section, the same contract states:

> Smoking Cessation Programs including any Service to eliminate or reduce the dependency on, or addiction to, tobacco, including but not limited to nicotine withdrawal programs and nicotine products (e.g., gum, transdermal patches, etc.).

As a result of conflicting contract language, it is nearly impossible to determine with certainty whether tobacco cessation treatment is a covered benefit. Even if the issuer no longer uses the exclusion in the contract to deny benefits for tobacco cessation, it would be difficult for a person to figure out whether tobacco cessation treatment is a covered benefit, which could discourage him or her from using these treatments. At worst, the conflicting contract terms mean that an issuer is intentionally not complying with the ACA.

Some contracts use circular exclusionary language that makes it more difficult to determine the scope of what is actually covered for tobacco cessation.

For example, one contract states:

> We cover tobacco use cessation services. For the purpose of this provision, "tobacco use cessation" means services that follows the United States Public Health Service guidelines for tobacco use cessation, including education and medical treatment components designed to assist a person in ceasing the use of tobacco products.

In the exclusions section, the same contract states:

> Except as specifically provided in this Policy, We do not cover treatment of tobacco addiction and supportive items for addiction to tobacco, tobacco products or nicotine substitutes.

Conflicting, potentially confusing provisions also apply to prescription drug coverage. For example, in one contract, the issuer has added a mandatory drug rider – a change to the contract that requires coverage for all tobacco cessation aids. Despite having this requirement, the company's formulary states: "Smoking Cessation products (i.e., transdermal nicotine, nicotine gum, Chantix, Zyban) are not covered." These contract provisions make it very difficult for a consumer to determine what counseling treatments and cessation aids would be covered. Contract exclusions relating to either services or aids for tobacco cessation make it more difficult to determine what specific services, if any, are covered and what specific aids, including medication, are covered. The exclusion provisions for services and medication in contracts that only referenced coverage of the USPSTF recommendations add to the uncertainty of what benefits are actually covered.

Contract language without specific reference to tobacco cessation coverage

Even if an average consumer can get beyond conflicting contract provisions, many may not realize that they have benefits for tobacco cessation treatment if their contract does not explicitly state that it covers such treatment. Reference to the USPSTF recommendations or general references to preventive services being covered are not sufficient. Clear information about what is covered is especially important for tobacco users. A 2011 study found that nearly 70% of people who tried to quit smoking did not use evidence-based cessation counseling or medications.[57] Increased awareness of the availability of these

services could help increase tobacco users' use of these treatments and achieve higher quit rates as a result.

Scope of Coverage: Lack of specificity

Due to the lack of specificity in many contracts, it is nearly impossible to figure out what specific benefits a consumer has coverage for. While some specifically state that individual, group and phone counseling services are or are not covered, many contracts do not have such detail. Some policies cover all types of counseling – individual, phone and group – while some cover only individual counseling but not phone or group counseling, and yet others cover individual and group but not phone counseling. Such significant variations in how health insurance coverage works for tobacco cessation treatment make it unwise to make any assumptions about the scope of coverage when contracts lack detail. A reference to covering USPSTF recommendations is not adequate to accurately convey to a consumer what specific treatments are covered.

When contracts reference the USPSTF recommendations and provide no additional detail, it is difficult for a consumer to determine what is covered and if there are limits on coverage. For example, consumers will not know if there are limits on the length of counseling sessions (e.g., 15 minute session), the number of sessions covered per quit attempt or the number of quit attempts per policy year.

It is difficult to determine what if any prescription or OTC coverage is available for tobacco cessation due to either general references to such benefits, exclusions for some of these benefits, or conflicting contract language. As discussed, not all policies cover prescription medication. Some cover prescription medications but not over-the-counter aids. Some cover OTCs but require a prescription. Furthermore, some policies cover tobacco cessation medications only when the patient is enrolled in a special program for tobacco cessation. A few policies specifically reference covering gum and patches while others specifically exclude such aids from coverage. Many policies are silent on coverage for patches, gum, and other aids.

Scope of Coverage: not consistent with USPSTF recommendations

Most policies did not list as a covered benefit all categories of treatments found to be effective by the USPSTF. One in ten contracts reviewed included as a covered benefit individual counseling, phone counseling, group counseling, prescription drugs and OTCs. In addition to potential confusion around what is covered, consumers may find that a treatment method that their physician recommends and is found to be effective by the USPSTF is not covered by the plan.

Cost-sharing

Whether cost-sharing obligations apply for tobacco cessation treatment is also ambiguous in many contracts. Some issuers clearly specify that cost-sharing does not apply to tobacco cessation treatment, and some state that tobacco cessation is a preventive service and that no cost-sharing applies to a preventive service. In other cases, however, it is not clear how cost-sharing works.

Whether services are subject to a deductible, co-pay or co-insurance depends on how the service is classified, and that is not always easy to discern. For example, when issuers classify counseling as a behavioral health benefit, requiring the consumer to find and read that section of the contract to determine what is covered at no cost-sharing. The contract's unclear definition of "behavioral therapy" makes it impossible to figure out if counseling for tobacco cessation is covered at no cost-sharing.

Complicating this is the separate coverage provisions for prescriptions, which have their own deductibles, and other cost-sharing requirements and formularies with tiers for cost-sharing. In some contracts the lack of contract language explicitly stating that cost-sharing does not apply to tobacco cessation medications and aids makes it difficult to determine whether cost-sharing applies.

Access Restrictions

Access to tobacco cessation treatment is limited through medical necessity requirements, pre-existing condition exclusions, requirements to participate in a formal program, and, in one case, a requirement for a health risk assessment to access prescription drugs and aids for tobacco cessation. These access limitations may mean that some tobacco users may not be able to access treatment. For example, while preexisting condition exclusions will no longer be allowed beginning in 2014, currently insurers are allowed to exclude coverage for a preexisting condition. Absent federal guidance on the use of preexisting condition exclusion periods for smokers, people trying to quit may not be able to access coverage until the exclusion period for their preexisting condition ends.

Requirements for participation in formal programs may deter some consumers from accessing cessation treatment.[58] While the incentive of using a formal program that provides enhanced benefits not otherwise covered is not problematic, the required participation as a prerequisite to accessing *basic* benefits could be problematic for consumers.

The general requirement for medical necessity determinations for tobacco cessation treatment could also work to restrict, inappropriately, access to cessation treatments for smokers. While medical necessity determinations may be a good tool to ensure appropriate access to treatments and to address overuse and unnecessary expenses, medical necessity determinations make little sense for preventive benefits that are often under-used. Additionally, the lack of clear application of such requirements in some cases means that it is difficult for a consumer to determine how to access tobacco cessation benefits.

Additional problems

Some insurance contracts use terms that are not defined and are not commonly understood. For example, insurers use terms like "supportive items" or "preparation for tobacco cessation" but do not define them. The use of such terms makes it difficult for consumers to determine what counseling options and medications are covered.

Coverage for prescription drugs and OTC drugs and aids

Which prescription drugs are covered is difficult to determine by looking at the insurance contract and the formulary.[59] A few contracts state that they cover certain tobacco cessation drugs, but the formularies do not list those drugs. Some formularies indicated that the formulary on the website only includes the most popular drugs, not all drugs covered by the insurer. Many formularies or contracts noted that insurers reserve the right to change formularies at any time.

One federal plan allows consumers to search the formulary online for preferred prescription drugs. Researchers found a wide range of tobacco cessation medications on the online formulary; however, the site notes: "Not all medications listed here are covered by every prescription drug plan. Some drugs may not have a preferred alternative listed. Please contact your healthcare provider for an appropriate alternative drug therapy. Your plan may limit or exclude certain medications from coverage."
A further complication is that issuers cover very different sets of medications on their formularies. In many cases, formularies categorize drugs into therapeutic purposes, with bupropion listed on the formulary as an antidepressant. If contract language does not state that smoking cessation drugs are

covered, and bupropion is only listed as an antidepressant, it is not clear that a consumer will be able to access bupropion for tobacco cessation. In other words, a contract that references a formulary with categorized drugs but does not specifically state that prescription drugs for tobacco cessation are covered could result in confusion around what is covered, and may actually mean that there is no coverage for tobacco cessation drugs.

Many of the contracts that covered OTC medications required a prescription, but OTCs were not always listed on the formulary. Some of the contracts that covered OTCs listed specific medications or products. Some contracts required patients to enroll in programs to receive this benefit. Some contracts stated that OTCs were covered but did not provide further details on type, number or other limitations.

All of these contract features make it impossible for a consumer to determine whether tobacco cessation medication and OTCs are covered benefits, what the scope of the coverage is, and what a consumer must do to access such covered medications.

Why significant variation in covered benefits for tobacco cessation treatments?

Researchers sought to better understand the reasons for such significant differences in coverage for a benefit where there is strong medical consensus on appropriate scope of clinical treatments. To this end, researchers interviewed current and former staff from different insurance companies, and staff at one tobacco cessation treatment company.[60]

According to former and current insurance company personnel and outside vendors of tobacco cessation treatments, benefits for tobacco cessation treatment vary greatly mostly due to cost considerations and not based on medical, clinical, or other evidenced-based calculations of effectiveness. According to a former medical director for a major health insurance company, there is no medical reason for the variations in coverage and differences are based on cost of providing the benefit. The medical director noted that because turnover is so high (25-30% per year) in the commercial market (private health insurance), health plans have a disincentive to cover prevention and wellness services that show cost-savings over the long-term because they will not actually realize those cost savings. Researchers also interviewed staff at the largest service provider for state quit-lines.[61] According to staff, internal analysis of the effectiveness of different treatments found that generally the combination of tobacco cessation counseling with the concurrent use of tobacco cessation medication is far more effective than either method used alone. Different forms of tobacco cessation medication are equally effective but what works for a particular individual varies. Cost was the main factor in the services that insurers and employers purchased from the service provider.

Researchers also interviewed medical and non-medical staff from two insurance companies, intentionally including staff from an insurer whose contracts were not included in the analysis and one insurer whose contracts were included. Both confirmed that decisions of what to cover are cost decisions. The discussion with staff from an insurance company whose contracts were included in the analysis also focused on how coverage works. During those discussions, researchers were able to verify that, in fact, the insurer's interpretation of what the ACA requires is narrow, stating in part, "We cover the visit where a provider talks to or counsels a member about tobacco use with no cost-sharing. We do not cover tobacco cessation drugs or assistive devices under the preventive services benefit." Based on discussions with insurance company staff, cost (cost benefits analysis) was a significant factor in deciding the scope of the benefit.

PART IV: Conclusion and Recommendations

The Obama Administration and Congress took a major step in 2010 to address nicotine addiction through the Affordable Care Act. The ACA's requirement for health insurance coverage to cover tobacco cessation treatments with no cost-sharing is a significant step toward reducing the huge toll this disease has taken in America, both financially and in terms of human life.

Analyzing individual and small group health insurance contracts, researchers found significant variation in how private health insurance coverage works for tobacco cessation treatment. Some contracts have provisions that appear to exclude tobacco cessation benefits from coverage altogether or conflicting provisions that make the scope of the benefit unclear. Many contracts are not clear on what treatments are covered. Many are not clear about covering prescription and over-the-counter medication and what specifically is covered – patches, gum and drugs. Some contracts are ambiguous on medical necessity determinations and have other potential restrictions to accessing covered treatments. Some are not clear whether there is cost-sharing for tobacco cessation counseling and prescription medication, creating uncertainty whether consumers can receive benefits required under the ACA without cost-sharing.

These findings raise serious questions about whether consumers have access to all tobacco cessation services that the USPSTF has found to be effective. Conflicting and confusing contract language also may leave consumers uncertain if tobacco cessation treatments are covered, which could discourage them from seeking these treatments.

We recommend that federal and state regulators issue further guidance to address problems with the tobacco cessation benefits in private health insurance. Importantly, federal regulators should require issuers to clearly state in health insurance policies that treatment for tobacco cessation is a covered benefit. Furthermore, policies should specifically state which treatments are covered and that cost-sharing does not apply.

It would be helpful for federal regulators to provide specificity about which treatments must be covered with respect to the ACA's required coverage of USPSTF-recommended services, as these recommendations were originally designed as guidelines for practitioners and not for insurance carriers.

Option 1: Federal regulators could issue guidance that sets a minimum federal standard based on OPM's guidance on coverage of tobacco cessation treatment, either by reference or by spelling out OPM's coverage requirement in its entirety. OPM requires issuers offering coverage to federal employees to cover at least two quit attempts per year with up to four tobacco cessation counseling sessions of at least 30 minutes each, including proactive telephone counseling, group counseling and individual counseling.[62] In addition, issuers must cover over-the-counter (OTC) and prescription drugs approved by the FDA to treat tobacco dependence for tobacco cessation, specifically all approved Nicotine Replacement Therapy (NRT) medications (nicotine gum, nicotine patch, nicotine lozenge, nicotine nasal spray and nicotine inhaler) and non-nicotine medications (bupropion and varenicline).

Option 2: Alternatively, federal guidance could specify that individual, group and phone counseling, and FDA-approved medication for tobacco cessation, including prescription and over-the-counter medications, were found to be effective by the USPSTF and must be covered. Guidance should also require insurance contracts to specifically state that prescription and over-the-counter medications are covered. Referring to summary formularies that are subject to change is not sufficient to help consumers understand what is and is not covered as a tobacco cessation treatment.

Absent detailed guidance, huge variation in benefits will continue to be a problem and tobacco users' access to tobacco cessation treatment will continue to be limited. Issuing detailed guidance would resolve current ambiguity and uncertainty, which is detrimental to both consumers and the regulated community.

In addition, and equally important, is the need for guidance on permissible and prohibited limitations to coverage under the ACA. We recommend the following:

- Clarify whether limiting the number of covered quit attempts or the number of counseling sessions per quit attempt would result in a violation of the ACA. If OPM's guidelines become a minimum federal floor, guidance should prohibit further limits so that at least two quit attempts per year and at least four tobacco cessation counseling sessions of at least 30 minutes each are covered.
- Clarify that tobacco cessation is a preventive benefit and that medical necessity determinations should not be used as a way to deny treatment for tobacco cessation. Many insurers have already concluded that medical necessity determinations do not apply to preventive benefits.
- Clarify that cost-sharing requirements are prohibited when treatment is from in-network providers and this includes a prohibition on cost-sharing for tobacco cessation prescription and over-the-counter medication.
- Clarify that all covered treatments should be available to all enrollees who want to quit without a barrier of having to participate in a program. Requiring participation in a formal "program" as a condition for covering cessation treatments could be a deterrent to using these treatments especially if these programs require people to take time off work, to attend classes or impose other obligations and other potential barriers to treatment.
- Clarify that general contract exclusions and conditional exclusions for tobacco cessation are prohibited in insurance contracts. Specific treatment exclusions for tobacco cessation should be permitted only for treatments that are not within either the USPSTF or the U.S. Public Health Service clinical guidelines.

Finally, model contract language for this benefit would help address ambiguities and uncertainties over what benefits are available to consumers and how to access such benefits. For decades, federal regulators have provided model notices and disclosures to help the regulated community comply with federal law. When models are used by the regulated community, there is a presumption of compliance. Although alternative language is allowed, there is no presumption that the alternative coverage language is sufficient to comply with federal law. In this area, model contract disclosure would benefit insurers and consumers alike. And insurers would still have the option of using other disclosure language. Based on contract language we found in existing products, we propose the following model disclosure for the tobacco cessation benefits:

> We cover tobacco cessation treatments. Covered counseling sessions include proactive telephone counseling, group counseling and individual counseling for tobacco cessation. Benefits are payable for up to two attempts per person per calendar year, with up to four counseling sessions of at least 30 minutes each per attempt. In addition, we cover over-the-counter (with a physician's prescription) and prescription smoking cessation drugs approved by the FDA, including nicotine gum, nicotine patch, nicotine lozenge, nicotine nasal spray and nicotine inhaler, bupropion and varenicline. The quantity of drugs reimbursed will be subject to recommended courses of treatment. You may obtain tobacco cessation drugs through … Pharmacy [A and B]. You may access counseling and medication treatments without any cost-sharing.

In the absence of federal guidance, it is critical for state insurance regulators to protect consumers and to provide the much needed guidance to insurers. State insurance regulators should issue guidance consistent with recommendations above. State regulators should not approve policies with exclusions

that contradict the benefit requirements. In addition, we recommend that state insurance regulators examine how insurers are implementing this benefit. State regulators can determine the degree of compliance with the requirement to cover tobacco cessation treatment through enforcement tools like general or targeted market conduct examinations, or through insurer surveys. Regulators should not rely on consumer complaints in this area. Most contracts are ambiguous as to what benefits are covered and many contracts do not say explicitly that they cover tobacco cessation benefits. Consequently, a consumer may not know that this benefit is available, and therefore is unlikely to file a complaint that a tobacco cessation benefit is being denied.

As states enact new consumer protections pursuant to the ACA, policymakers, especially those in states that will allow rating based on tobacco use, should consider a notice to consumers about the higher premium rate and the availability of tobacco cessation treatments under the plan. Better awareness of treatments covered by a plan could lead to more consumers using such treatments and consequently quitting.

We also recommend that insurers reexamine their products. If deletion of exclusionary language or other clarifications are necessary, such modifications should be made. If approval is required in the state, then there should be an expedited process or other means to allow insurers to correct misleading or ambiguous contracts.

Federal guidance and state action will help ensure that tobacco cessation benefits in private health insurance coverage are available and work for smokers trying to quit. Guidance will also help the regulated community comply with the minimum federal requirements.

In conclusion, the ACA's preventive care coverage requirements are critical to efforts to reduce tobacco use. By eliminating cost-barriers to accessing tobacco cessation treatments and utilizing the private market and its innovative approaches to medical care and prevention, the ACA will save lives and save millions of dollars in health expenditures related to tobacco addiction, and additional guidance will help accomplish this.

[1] Centers for Disease Control and Prevention, Vital Signs: Current Cigarette Smoking Among Adults Aged ≥ 18 Years - United States, 2005-2010, *MMWR 60*, (Sept. 9, 2011) at *http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6035a5.htm?s_cid=mm6035a5_w*.
[2] *Id*.
[3] *Id.*
[4] U.S. Department of Health and Human Services, *Reducing the Health Consequences of Smoking: 25 Years of Progress. A Report of the Surgeon General* (1989) at http://profiles.nlm.nih.gov/NN/B/B/X/S/.
[5] U.S. Department of Health and Human Services, *The Health Consequences of Smoking. A Report of the Surgeon General*, 2004, http://www.surgeongeneral.gov/library/smokingconsequences/.
[6] *Id.*
[7] Centers for Disease Control and Prevention, *Sustaining State Programs for Tobacco Control: Data Highlights 2006* [and underlying CDC data and estimates], http://www.cdc.gov/tobacco/data_statistics/state_data/data_highlights/2006/index.htm.
[8] Centers for Disease Control and Prevention, Quitting Smoking Among Adults – United States, 2001-2010, MMWR 2011; 60(44): 1513-1519 (Nov. 11, 2011).
[9] Michael C. Fiore, et al., Treating Tobacco Use and Dependence: 2008 Update, U.S. Dept. Health and Human Services (May 2008) available at http://www.ahrq.gov/clinic/tobacco/treating_tobacco_use08.pdf.
[10] The Clinical Practice Guidelines were developed by tobacco cessation experts charged with identifying effective tobacco dependence treatments and practices to be published by the PHS. The consortium of sponsors included federal government agencies and private nonprofit organizations: AHRQ, CDC, NCI, NHLBI, NIDA, American Legacy Foundation, RWJF, and UW-CTRI at http://guideline.gov/content.aspx?id=12520.
[11] Fiore, et al., see *supra* note 9.
[12] *Id.* at 139.
[13] *Id.* at 84. Forty-three studies on session length were reviewed showing a trend that indicated higher intensity counseling produced the highest abstinence rates; review of 35 studies on total amount of contact time showed a clear trend for abstinence with increased contact time up to 90 minutes; a review of 46 studies on number of person-to-person sessions indicated an increase in abstinence rates for multiple treatment sessions. *Id.* at 85.
[14] *Id.* at 101.
[15] *Id.* at 102.
[16] *Id.* at 106.
[17] *Id. at* 24.
[18] Fitch, K., Iwasaki, K., & Pyenson, B., Covering Smoking Cessation as a Health Benefit: A Case for Employers (Dec. 2006).
[19] Land, Thomas, et al., "Medicaid Coverage for Tobacco Dependence Treatments in Massachusetts and Associated Decreases in Smoking Prevalence," *PloS One,* 5(3) (Mar. 5, 2010).
[20] Land, Thomas, et al., "A Longitudinal Study of Medicaid Coverage for Tobacco Dependence Treatments in Massachusetts and for Associated Decreases in Hospitalizations for Cardiovascular Disease," *PLoS Medicine*, Volume 7, Issue 12, December, 2010.
[21] Patrick Richard, Kristina West & Leighton Ku, *The Return on Investment of a Medicaid Tobacco Cessation Program in Massachusetts*, PLOS ONE (2012) *at* http://www.plosone.org/article/info%3Adoi%2F10.1371%2Fjournal.pone.0029665
[22] *Helping Smokers Quit: Tobacco Cessation Coverage 2011*, American Lung Association 2 (Dec. 2011) [hereinafter *Helping Smokers Quit*].
[23] Grandfathered plans are plans that provided coverage on or before March 23, 2010, as long as the plan has followed the rules for maintaining grandfathered status. 45 CFR §147.140.
[24] 42 U.S.C. 300gg-13 (Mar. 23, 2010).
[25] *Id.*
[26] Counseling and Interventions to Prevent Tobacco Use and Tobacco-Caused Disease in Adults and Pregnant Women, U.S. Preventive Services Task Force, http://www.uspreventiveservicestaskforce.org/uspstf09/tobacco/tobaccors2.htm (April 2009).
[27] *Id.*
[28] *Id.*

[29] 75 Fed. Reg. 41735 (July 19, 2010).
[30] U.S. Preventive Services Task Force, USPSTF A and B Recommendations at http://www.uspreventiveservicestaskforce.org/uspstf/uspsabrecs.htm (last visited Nov. 15, 2012).
[31] Solberg LI, Maciosek, MV, Edwards NM, Khanchandani HS, and Goodman MJ. Repeated tobacco-use screening and intervention in clinical practice: Health impact and cost effectiveness. American Journal of Preventive Medicine 31(1) (2006).
[32] *FEHB Program Carrier Letter*, U.S. Office of Personnel Management (May 17, 2010) *available at* http://www.opm.gov/carrier/carrier_letters/2010/2010-12c.pdf.
[33] *Id.*
[34] 42 U.S.C. 300gg-6; 42 U.S.C. 18022.
[35] Essential Health Benefits Bulletin, Center for Consumer Info. Ins. Oversight 8-10 (Dec. 16, 2011).
[36] There are thousands of different health insurance products sold in the United States. This is not a sampling of what is in the marketplace.
[37] Census population (Apr. 1, 2010) at http://2010.census.gov/news/press-kits/apportionment/apport.html.
[38] *Helping Smokers Quit, supra* note 22.
[39] Centers for Disease Control and Prevention, State Tobacco Activities Tracking and Evaluations (STATE) System, Behaviors – Cigarette Use, Adults, BRFSS (2010) at http://apps.nccd.cdc.gov/statesystem/ComparisonReport/ComparisonReports.aspx?TopicID=100&MeasureID=100 (BRFSS is Behavioral Risk Factor Surveillance System).
[40] Incidence Rate Reports by State, All Races, Both Sexes, Lung & Bronchus , All Ages, State Cancer Profiles, National Cancer Institute at http://statecancerprofiles.cancer.gov/incidencerates/index.php?stateFIPS=00&cancer=047&race=00&sex=0&age=001&type=incd&sortVariableName=rate&sortOrder=default (last visited June 13, 2012).
[41] One source included information provided to CCIIO as part of a request for an adjustment to the medical loss ratio requirement. Market share information and state data submissions are available at *Medical Loss Ratio,* Center for Consumer Information and Insurance Oversight at http://cciio.cms.gov/programs/marketreforms/mlr/index.html (last visited June 14, 2012).
[42] Essential Health Benefits: Illustrative List of the Largest Three Small Group Products by State, Center for Consumer Info. Ins. Oversight, (Jan. 25, 2012). See also Essential Health Benefits, List of the Largest Three Small Group Products by State, Center for Consumer Info. Ins. Oversight (July 3, 2012) for updated list.
[43] Healthcare.gov is the federal government's central website for healthcare reform. Managed by the U.S. Department of Health and Human Services, healthcare.gov provides information about finding insurance options – a search function that allows individuals, families, and small businesses to see what options are available in their states. For each of the selected states, authors used the healthcare.gov "Find Insurance Options" tool. In the individual market, to ensure consistency, same search was run for each state using the following information: male, birthdate: 2/29/1980, non-smoker, single, no affordability problems, and no medical conditions. The authors used zip codes from a high population area in a large city in a state. One limitation to this methodology is that it is not possible to search for most popular products using a retroactive date like December of 2011. For the small group market search, researchers used business size of 25 employees, same zip code as those used for the individual health insurance market search. For each search, results were sorted by Enrollment, high to low.
[44] According to a federal source, there are limitations on the information provided in healthcare.gov. Enrollment is reported at the state level (which is what will be used for the benchmarks, but availability by zip code might result in a larger state-level product being left off the displayed list. Additionally, there are instances where a company reports to HIOS (to give us enrollment), but for one reason or 10 make it to the web site (problems with their submission, the product is no longer for sale, etc.). Finally, there may be some policy decisions that could affect the actual algorithm and change the final result.
[45] At the time of submission, only one of the selected states had made its selection, which was not one of the contracts reviewed.
[46] Texas required a formal freedom of information/records request and fees for printing/copying and labor.
[47] New Jersey issuers are required to use standard contract language available on the Insurance Division's website. Discussion with New Jersey state regulator. (Dec. 6, 2011).
[48] Nicotrol is available as a nasal spray or inhaler, but some formularies listed "Nicotrol" without specifying nasal spray or inhaler.
[49] In addition, two contracts included both a partial exclusion and a conditional exclusion.

[50] Medical necessity means that a medical treatment is indicated for a patient. Plans consider cost, availability of less costly treatments, and the necessity for such treatment. If a patient receives a treatment that the plan considers not medically necessary, the plan will not pay for it.
[51] Some issuers require consumers to answer questionnaires about their health prior to providing coverage for services or treatments.
[52] Counseling includes individual, phone, and group counseling, whether specifically referenced in the contract, or incorporated by reference to the USPSTF recommendations.
[53] When there is a pre-existing condition exclusion, smoking cessation treatment is not available to a smoker newly enrolling in coverage. Treatment benefit would only be available after the exclusionary period is over. A prior authorization requirement means that a health plan reviews whether a particular treatment for tobacco cessation is necessary for the patient. If a patient does not request and receive prior-authorization, then a health plan can refuse to pay for the benefit.
[54] This count includes contracts that covered prescription drugs, OTCs, or both.
[55] This count is based on review of contract language. This was not captured in the Appendix summaries of contract language.
[56] In addition to the 20 contracts, four plans included references to the task force but neither specifically excluded nor specifically included tobacco cessation aids (prescription or OTC). Specifically, FLSE1 and SDIN1 referenced USPSTF with no specifics regarding prescription drugs; NJIN2 referred to "Nicotine Dependence Treatment," but did not specifically discuss prescription medications or OTC; and KYSG1 had both a formulary listing covered medications and an exclusions list, neither of which included tobacco cessation drugs.
[57] Centers for Disease Control and Prevention, Quitting Smoking Among Adults – United States, 2001-2010, *MMWR* (Nov. 11, 2011).
[58] Centers for Disease Control and Prevention, State Medicaid Coverage for Tobacco-Dependence Treatments – United States, 2005, *MMWR*, 55(44);1194-1197 (Nov. 10, 2006).
[59] When insurance contracts mentioned formularies, researchers obtained formularies through insurance company websites. Some formularies were more difficult to find than others – the search at times returning a very limited or an incorrect formulary, e.g. Medicare advantage products' formulary.
[60] Researchers developed a set of questions for medical and non-medical insurance company staff.
[61] Researchers contacted staff at Alere, National Jewish Health, and Healthways for interviews. National Jewish Health declined to interview and Healthways did not return calls. Quitlines offer a variety of tobacco cessation treatments including coaching and counseling, referrals, mailed materials, web-based referrals.
[62] *FEHB Program Carrier Letter*, U.S. Office of Personnel Management (May 17, 2010) *available at* http://www.opm.gov/carrier/carrier_letters/2010/2010-12c.pdf.

Summary: Individual Health Insurance Market Policies

	FLIN1 PPO	KYIN1 PPO	NVIN1 PPO	NVIN2 HMO	NVIN3 PPO	NJIN1[i] PPO	NJIN2[i] HMO	ORIN1 PPO	ORIN2 PPO	ORIN3 PPO	SDIN1 HMO	SDIN2 PPO
Is there explicit language referencing tobacco cessation as a covered benefit?	No	Yes	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Are USPSTF general preventive care requirements referenced?	No	Yes	No[ii]	Yes	Yes	No	No	Yes	Yes	Yes	Yes	Yes
Are there specific tobacco cessation treatments excluded?	No	No	Yes	Yes	Yes	No	No	No	Yes	No	No	Yes
Is there an exclusion for all benefits for tobacco cessation?	Yes	No	No	No	No	No	No	No	No	No	Yes	No
Does the exclusion contradict the description of covered benefits?	Yes	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	Yes	N/A
Are there prerequisites to receiving tobacco cessation treatments?	Yes	Yes	Yes	Yes	No	No	No	No	No	Yes	Yes	Yes
Medical necessity determination[iii]?	Yes	Yes	Yes	Yes	N/A	N/A[iv]	N/A[iv]	N/A	N/A	Yes	Yes	Yes
Enrollment in a program?	No	Yes	No	No	N/A	N/A	N/A	N/A	N/A	Yes	No	No
Health risk assessment required?	No	No	No	No	N/A	N/A	N/A	N/A	N/A	No	No	No
Requiring use of one treatment before another will be covered?	No	No	No	No	N/A	N/A	N/A	N/A	N/A	No	No	No
Do cost-sharing requirements apply to tobacco cessation counseling by in-network providers?	No[v]	No	No[v]	No	No	No	No	No	No	No	No	No
Do cost-sharing requirements apply to tobacco cessation prescription drugs?	N/A	Yes	N/A	N/A	N/A	No	No	No	No	No	Yes	N/A
Is the coverage limited to a specific number of quit attempts?	No	No	No	No	No	No	No	No	No	No	No	No

Are there restrictions on types of providers who can be reimbursed for tobacco cessation treatment services?	No	No	No	No	No	No	No	No	Yes	No	No	No
Are there other restrictions/limitations not described above (e.g., pre-existing condition exclusions)?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Covered Tobacco Cessation Treatments												
	FLIN1 PPO	KYIN1 PPO	NVIN1 PPO	NVIN2 HMO	NVIN3 PPO	NJIN1 PPO	NJIN2 HMO	ORIN1 PPO	ORIN2 PPO	ORIN3 PPO	SDIN1 HMO	SDIN2 PPO
Is individual counseling covered?	No	Yes	Not Clear	TF	TF	Yes	Yes[vi]	Yes	Yes	Yes	TF	TF
Is there a limit on number of counseling sessions covered?	N/A	No	Not Clear	TF	TF	No	No	No	No	No	TF	TF
Is phone counseling covered?	No	TF	Not Clear	TF	TF	No	No[vii]	TF	TF	Yes	No	No
Is there a limit on number of counseling sessions covered?	N/A	TF	Not Clear	TF	TF	N/A	No	TF	TF	No	N/A	N/A
Is group counseling covered?	No	TF	Not Clear	TF	TF	No	Yes[vi]	TF	TF	Yes	TF	TF
Is there a limit on number of counseling sessions covered?	N/A	TF	Not Clear	TF	TF	N/A	No	TF	TF	No	TF	TF
Are prescription drugs covered?	No	Yes	No	No	No	Yes	Yes[vi]	Yes	Yes	Yes	Yes	No
Does the policy reference a formulary for tobacco cessation drugs?	N/A	No	N/A	N/A	N/A	No	No	Yes	Yes	No	Yes	N/A
Is the formulary available on the company website?	N/A	N/A	N/A	N/A	N/A	N/A	N/A	Yes	Yes	N/A	Yes	N/A
Are OTCs covered?	No	Yes[viii]	No	No	No	No	No	TF	TF	Yes	No	No
Is a prescription required for OTC coverage?	N/A	No	N/A	N/A	N/A	N/A	N/A	Yes	Yes	No	N/A	N/A

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Summary: Small Group Nonbenchmark Health Insurance Market Policies

	FLSG2 HMO	KYSG 1 PPO	KYSG 3 HMO	NVSG 1 HMO	NVSG 2 PPO	NVSG4 HMO	NJSG1[i] PPO	NJSG2[i] PPO	NJSG3[i] HMO	NJSG4[i] HMO	ORSG2 PPO	ORSG3 PPO
Is there explicit language referencing tobacco cessation as a covered benefit?	No	Yes	Yes[ix]	No	Yes	No	Yes	Yes	No	Yes	Yes	Yes
Are USPSTF general preventive care requirements referenced?	Yes	Yes	No	Yes	No	Yes	No	No	No[ii]	No	Yes	Yes
Are there specific tobacco cessation treatments excluded?	No	No	Yes	No	No	Yes	Yes	No	No	No	No	Yes
Is there an exclusion for all benefits for tobacco cessation?	Yes	No	No	No	No	No	No	No	No	No	No	No
Does the exclusion for all benefits contradict the description of covered benefits?	Yes	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Are there prerequisites to receiving tobacco cessation treatments?	No	Yes	Yes	Yes	Yes	No	No	No	No	No	Yes	Yes
Medical necessity determination [iii]?	N/A	Yes	Yes	Yes	Yes	N/A	N/A[iv]	N/A[iv]	N/A[iv]	N/A[iv]	Yes	Yes
Enrollment in a program?	N/A	Yes	No	No	No	N/A	N/A	N/A	N/A	N/A	No	No
Health risk assessment required?	N/A	No	No	No	No	N/A	N/A	N/A	N/A	N/A	No	No
Requiring use of one treatment before another will be covered?	N/A	No	No	No	No	N/A	N/A	N/A	N/A	N/A	No	No
Do cost-sharing requirements apply to tobacco cessation counseling by in-network providers?	No	No	Yes	Yes	Yes	No	No	No	Yes	Yes	No	No
Do cost-sharing requirements apply to tobacco cessation prescription drugs?	N/A	No[x]	No	N/A	N/A	N/A	No	No	Yes	No	No	No
Is the coverage limited to a specific number of quit attempts?	No	No	No	No	No	No	No	No	No	No	No	No

Are there restrictions on types of providers who can be reimbursed for tobacco cessation treatment services?	No	No	No	No	No	No	Yes	No	No	No	No	Yes
Are there other restrictions/limitations not described above (e.g., pre-existing condition exclusions)?	Yes	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Covered Tobacco Cessation Treatments												
	FLSG2 HMO	KYSG 1 PPO	KYSG 3 HMO	NVSG 1 HMO	NVSG 2 PPO	NVSG4 HMO	NJSG1 PPO	NJSG2 PPO	NJSG3 HMO	NJSG4 HMO	ORSG2 PPO	ORSG3 PPO
Is individual counseling covered?	TF	TF	Yes	TF	TF	TF	Yes	Yes	Not Clear	Yes	Yes	TF
Is there a limit on number of counseling sessions covered?	TF	TF	Yes	TF	TF	TF	No	No	Not Clear	No	No	TF
Is phone counseling covered?	TF	TF	Yes	TF	Yes	TF	No	No	No	No	Yes	TF
Is there a limit on number of counseling sessions covered?	TF	TF	Yes	TF	No	TF	N/A	N/A	N/A	N/A	No	TF
Is group counseling covered?	TF	TF	Yes	TF	TF	TF	No	No	Not Clear	No	Yes	TF
Is there a limit on number of counseling sessions covered?	TF	TF	Yes	TF	TF	TF	N/A	N/A	Not Clear	N/A	Yes	TF
Are prescription drugs covered?	No	Yes	Yes	No	No	No	Yes	Yes	Not Clear	Yes	Yes	Yes
Does the policy reference a formulary for tobacco cessation drugs?	N/A	Yes	No	N/A	N/A	N/A	No	No	No	No	Yes	Yes
Is the formulary available on the company website?	N/A	Yes	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	Yes	Yes
Are OTCs covered?	No	Yes	Yes	No	No	No	No	No	No	No	No	TF
Is a prescription required for OTC coverage?	N/A	No	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	Yes[xi]

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Summary: Small Group Benchmark Health Insurance Market Policies

	FLSG1 PPO	KYSG2 PPO	NVSG3 PPO	ORSG1 PPO	SDSG1 HMO	SDSG2 HMO
Is there explicit language referencing tobacco cessation as a covered benefit?	No	Yes	No	Yes	Yes[xii]	Yes[xii]
Are USPSTF general preventive care requirements referenced?	Yes	Yes	Yes	Yes	Yes	Yes
Are there specific tobacco cessation treatments excluded?	No	No	Yes	No	No	No
Is there an exclusion for all benefits for tobacco cessation?	Yes	No	No	No	Yes	Yes
Does the exclusion for all benefits contradict the description of covered benefits?	Yes	N/A	N/A	N/A	Yes	Yes
Are there prerequisites to receiving tobacco cessation treatments?	Yes	Yes	Yes	No	Yes	Yes
Medical necessity determination [iii]?	Yes	Yes	Yes	N/A	Yes	Yes
Enrollment in a program?	No	Yes	No	N/A	No	No
Health risk assessment required?	No	No	No	N/A	No	No
Requiring use of one treatment before another will be covered?	No	No	No	N/A	No	No
Do cost-sharing requirements apply to tobacco cessation counseling by in-network providers?	No	No	No	No	No	No
Do cost-sharing requirements apply to tobacco cessation prescription drugs?	N/A	N/A	N/A	No	N/A	N/A
Is the coverage limited to a specific number of quit attempts?	No	No	No	No	No	No
Are there restrictions on types of providers who can be reimbursed for tobacco cessation treatment services?	No	No	No	Yes	No	No
Are there other restrictions/limitations not described above (e.g., pre-existing condition exclusions)?	Yes	Yes	Yes	Yes	Yes	Yes
Covered Tobacco Cessation Treatments						
	FLSG1 PPO	KYSG2 PPO	NVSG3 PPO	ORSG1 PPO	SDSG1 HMO	SDSG2 HMO
Is individual counseling covered?	TF	TF	TF	Yes	TF	TF
Is there a limit on number of counseling sessions covered?	TF	TF	TF	No	TF	TF
Is phone counseling covered?	TF	Yes	TF	TF	TF	TF
Is there a limit on number of counseling sessions covered?	TF	No	TF	TF	TF	TF
Is group counseling covered?	TF	TF	TF	TF	TF	TF
Is there a limit on number of counseling sessions covered?	TF	TF	TF	TF	TF	TF

Are prescription drugs covered?	No	No	No	Yes	No	No
Does the policy reference a formulary for tobacco cessation drugs?	N/A	N/A	N/A	Yes	N/A	N/A
Is the formulary available on the company website?	N/A	N/A	N/A	Yes	N/A	N/A
Are OTCs covered?	No	Yes	No	No	No	No
Is a prescription required for OTC coverage?	N/A	No	N/A	N/A	N/A	N/A

"TF" is a reference to the USPSTF. In the chart, a reference to TF means that a contract references the USPSTF. However, there is no detail in the contract specific to what is covered or limits to services or aids.

Summary: State Employee Health Insurance Plans

	FLSE1 HMO	KYSE1 PPO	NVSE1 HMO	NJSE1 HMO	ORSE1 PPO	SDSE1 HMO
Is there explicit language referencing tobacco cessation as a covered benefit?	No	Yes	Yes	Yes	Yes	Yes
Are USPSTF general preventive care requirements referenced?	Yes	No	No	No	Yes	No
Are there specific tobacco cessation treatments excluded?	No	Yes	No	No	No	No
Is there an exclusion for all benefits for tobacco cessation?	Yes	No	No	No	No	No
Does the exclusion for all benefits contradict the description of covered benefits?	Yes	N/A	N/A	N/A	N/A	N/A
Are there prerequisites to receiving tobacco cessation treatments?	No	No	No	Yes	Yes	Yes
Medical necessity determination [iii]?	N/A	N/A	N/A	Yes	Yes	Yes
Enrollment in a program?	N/A	N/A	N/A	No	No	No
Health risk assessment required?	N/A	N/A	N/A	No	No	Yes
Requiring use of one treatment before another will be covered?	N/A	N/A	N/A	No	No	No
Do cost-sharing requirements apply to tobacco cessation counseling by in-network providers?	Yes	No	No	No	No	Yes
Do cost-sharing requirements apply to tobacco cessation prescription drugs?	No	Yes	N/A	No	No	Yes
Is the coverage limited to a specific number of quit attempts?	No	No	No	No	No	No
Are there restrictions on types of providers who can be reimbursed for tobacco cessation treatment services?	No	No	No	No	Yes	No
Are there other restrictions/limitations not described above (e.g., pre-existing condition exclusions)?	No	Yes	No	Yes	No	Yes
Covered Tobacco Cessation Treatments						
	FLSE1 HMO	KYSE1 PPO	NVSE1 HMO	NJSE1 HMO	ORSE1 PPO	SDSE1 HMO
Is individual counseling covered?	TF	No	Yes[xiii]	No	No	Yes
Is there a limit on number of counseling sessions covered?	TF	N/A	No	N/A	N/A	No
Is phone counseling covered?	TF	Yes	Yes[xiii]	Yes[xiv]	Yes	No
Is there a limit on number of counseling sessions covered?	TF	No	No	No	No	N/A
Is group counseling covered?	TF	No	Yes[xiii]	No	No	No

Is there a limit on number of counseling sessions covered?	TF	N/A	No	N/A	N/A	N/A
Are prescription drugs covered?	Yes	Yes	No	Yes	Yes	Yes
Does the policy reference a formulary for tobacco cessation drugs?	No	Yes	N/A	Yes[xv]	Yes	No
Is the formulary available on the company website?	Yes	Yes	N/A	Yes	Yes	Yes
Are OTCs covered?	No	Yes	No	Yes	Yes	Yes
Is a prescription required for OTC coverage?	N/A	Yes	N/A	Yes	Yes	No

"TF" is a reference to the USPSTF. In the chart, a reference to TF means that a contract references the USPSTF. However, there is no detail in the contract specific to what is covered or limits to services or aids.

Summary: Federal Employee Health Benefit Plans

*May be selected by states as a benchmark plan.

	FEDE1* PPO	FEDE2* PPO	FEDE3 HMO
Is there explicit language referencing tobacco cessation as a covered benefit?	Yes	Yes	Yes
Are USPSTF general preventive care requirements referenced?	No[xvi]	No	No[xvi]
Are there specific tobacco cessation treatments excluded?	Yes	No	No
Is there an exclusion for all benefits for tobacco cessation?	No	No	No
Does the exclusion for all benefits contradict the description of covered benefits?	N/A	N/A	N/A
Are there prerequisites to receiving tobacco cessation treatments?	Yes	Yes	Yes
Medical necessity determination [iii]?	Yes	Yes	Yes
Enrollment in a program?	No	No	No
Health risk assessment required?	No[xvii]	No	No
Requiring use of one treatment before another will be covered?	No	No	No
Do cost-sharing requirements apply to tobacco cessation counseling by in-network providers?	No	No	No
Do cost-sharing requirements apply to tobacco cessation prescription drugs?	No	Yes	No
Is the coverage limited to a specific number of quit attempts?	No	Yes	No
Are there restrictions on types of providers who can be reimbursed for tobacco cessation treatment services ?	No	No	No
Are there other restrictions/limitations not described above (e.g., pre-existing condition exclusions)?	No	No	No
Covered Tobacco Cessation Treatments			
	FEDE1 PPO	FEDE2 PPO	FEDE3 HMO
Is individual counseling covered?	Yes	Yes	Yes
Is there a limit on number of counseling sessions covered?	No	Yes	No
Is phone counseling covered?	Not Clear	Yes	Yes
Is there a limit on number of counseling sessions covered?	N/A	Yes	No
Is group counseling covered?	No	Yes	Yes

Is there a limit on number of counseling sessions covered?	N/A	Yes	No
Are prescription drugs covered?	Yes	Yes	Yes
Does the policy reference a formulary for tobacco cessation drugs?	No	No	No
Is the formulary available on the company website?	Yes	Yes	Yes
Are OTCs covered?	Yes	Yes	Yes
Is a prescription required for OTC coverage?	Yes	Yes	No

NOTES FOR ALL CHARTS

[i] Researchers reviewed New Jersey's standard contract language available on the New Jersey Division of Insurance website.

[ii] Contract references preventive services, but does not reference USPSTF.

[iii] "Yes" indicates contracts where a medical necessity determination applies and there is no exception for tobacco cessation.

[iv] Researchers initially concluded that a medical necessity determination would be required based on standard contract language and lack of a clear exception to medical necessity in the contract. Based on subsequent discussions with a New Jersey state regulator indicating that a medical necessity determination is not required for preventive services including tobacco cessation, researchers modified the summary chart to reflect contract interpretation of the regulator.

[v] Contract does not have explicit language referencing tobacco cessation or USPSTF; however, contract covers preventive benefits generally. If tobacco cessation is considered a preventive service, then the benefit is provided with no cost-sharing.

[vi] If included as part of Nicotine Dependence Treatment, which is not defined in the standard language. Based on conversations with a New Jersey regulator, coverage for nicotine dependence was intended to be limited to prescription drugs and over-the-counter medications. Behavioral health benefits listed in the standard language were intended for mental health diagnoses not for counseling for tobacco cessation.

[vii] A New Jersey state regulator indicated that phone counseling is not covered under the standard contract language.

[viii] Program information references gum and patches.

[ix] Contract references preventive services lists available on company's website.

[x] Tobacco cessation drugs are included in a tobacco cessation program, but no details on cost-sharing are available.

[xi] If OTCs are covered for tobacco cessation, then a prescription is required.

[xii] The contract references the company's website, which specifically references the tobacco cessation provision from the USPSTF.

[xiii] If considered part of preventive counseling for Tobacco Use.

[xiv] Some not all of the State's options for employees includes this benefit.

[xv] Contract requires prescription drugs to be listed in the member handbook.

[xvi] Contract references preventive services as required by the ACA, but does not reference USPSTF.

[xvii] Health risk assessment is required for tobacco cessation drugs.