
To: Health Connector Board of Directors

CC: Audrey Morse Gasteier, Executive Director

From: Andrew R. Egan, General Counsel, & Michael E. Cannella, Assistant General Counsel
Marissa Woltmann, Chief of Policy

Date: February 6, 2026

Re: Proposed Amendments to Minimum Creditable Coverage Regulations - Vote

Background

As part of Chapter 58 reforms, Massachusetts law requires adult residents to have health insurance that meets the state’s Minimum Creditable Coverage (MCC) standards or potentially face an individual mandate penalty. The Health Connector’s MCC regulations govern what constitutes minimum creditable coverage for over 5 million state residents. MCC outlines the type of coverage a person needs to avoid facing a tax penalty under the state’s individual mandate, establishing a “floor” of benefits required to “check the box” as having been covered.

State law defines MCC at a high level and authorizes the Health Connector Board to further determine the minimum standards of the plans that individual residents are required to have (via MCC regulations). MCC standards do not require market actors to provide compliant coverage. While MCC does not apply to health insurance plans directly, plans often choose to meet MCC standards so that their members don’t face tax penalties.

Overview

On July 13, 2023, the Health Connector Board of Directors voted to approve final amendments to the Health Connector’s Minimum Creditable Coverage (“MCC”) regulations, which define the minimum level of benefits the 5.6 million adult residents of Massachusetts must maintain, if affordable, to satisfy the Massachusetts individual mandate and avoid a tax penalty. The amendments were to align the definition of “Preventive Health Services” with the definition of that term in the federal Patient Protection and Affordable Care Act (the “ACA”) and, consistent with the ACA, to prohibit the imposition of cost-sharing on such Preventive Health Services. The Health Connector took this action in response to litigation in the case now known as Braidwood Management Inc. v. Kennedy, which threatened to undermine the authority of the regime that defines Preventive Health Services for purposes of the ACA.

The ACA regime relies on three bodies that make recommendations about which services are considered high quality and, therefore, must be included in coverage as Preventive Health Services. While that case preserved the authority of the ACA's regime that defines Preventive Health Services, it also opened the door to the possibility that the federal government could alter the services defined as Preventive Health Services by changing the members on those recommending bodies or otherwise exerting more direct control over the recommendations they make without regard to the best evidence available. When the federal government makes changes to the universe of Preventive Health Services required to be covered without cost-sharing, current MCC regulations inherit the change and the minimum quality of coverage Massachusetts residents must maintain is impacted.

Massachusetts has a longstanding commitment to ensuring robust access to high quality, evidence-based preventive health care. Maintaining that commitment requires taking action to prevent changes in federal recommendations that would result in a deterioration of the quality of coverage Massachusetts residents obtain. Health Connector staff propose to amend the definition of Preventive Health Services in the MCC regulations to set a floor that will maintain the current definition of Preventive Health Services, as of July 1, 2025. This will mean that the services that count as Preventive Health Services as of that date will continue to be included in that definition for the purpose of MCC, regardless of future changes to the scope of services required to be covered without cost-sharing under federal law, thus ensuring that Massachusetts residents will continue to need a minimum level of coverage that includes evidence-based preventive health care. The proposed change to the MCC regulations would be made effective to align with the start of the 2027 tax year to ensure that residents of Massachusetts will be evaluated for their compliance with the individual mandate in a given tax year using the same MCC standards.

This memorandum provides an overview of (1) the individual mandate and MCC regulations, (2) coverage of preventive services under the ACA, (3) the *Braidwood Management Inc. v. Kennedy* case, (4) Recent modifications to federal preventive services, and (5) Health Connector staff's recommendation to amend the MCC regulations in order to address deterioration of the scope of Preventive Health Services required by federal policy making.

Coverage of Preventive Services under the ACA

Since the ACA became effective in 2010, more than 150 million people have benefited from access to preventive care without cost-sharing under the ACA, which has increased cancer screening, improved the earlier detection and treatment of chronic health conditions, and narrowed racial disparities.¹

¹ [Access to Preventive Services without Cost-Sharing: Evidence from the Affordable Care Act | ASPE \(hhs.gov\)](#)

The ACA requires all plans to cover preventive services without cost sharing based on the recommendations of three clinical bodies. Specifically, 42 U.S.C. § 300gg-13² and its implementing regulations relating to coverage of preventive services require non-grandfathered group health plans and health insurance issuers offering non-grandfathered group or individual health insurance coverage to cover, without the imposition of any cost-sharing requirements, the following items or 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) with respect to the individual involved;
- Immunizations for routine use in children, adolescents, and adults that have in effect a recommendation from the Advisory Committee on Immunization Practices (ACIP) of the Centers for Disease Control and Prevention (CDC) with respect to the individual involved;
- With respect to infants, children, and adolescents, evidence-informed preventive care and screenings provided for in comprehensive guidelines supported by the Health Resources and Services Administration (HRSA); and
- With respect to women, such additional preventive care and screenings not described in 42 U.S.C. § 300gg-13as provided for in comprehensive guidelines supported by HRSA.

Braidwood Management, Inc. v. Kennedy Case

The primary issue in the case of Braidwood Management, Inc. v. Kennedy was whether the USPSTF, ACIP, and HRSA – the three bodies whose recommendations define Preventive Health Services – were structured in a manner that violates the Appointments Clause of the U.S. Constitution. A finding that they did violate the Appointments Clause could have meant that recommendations made by those bodies after 2010 would not carry the force of law.

Relevant facets of the case were resolved in various courts, including the U.S. Supreme Court on June 27, 2025, and the outcome of these court proceedings was that none of the three bodies were structured in a way that violates the Appointments Clause, because the Secretary of Health and Human Services has adequate supervisory authority over their members or over whether the recommendations they propose will actually take effect as official recommendations for the purposes of defining Preventive Health Services.

While the courts preserved the validity of the recommendations made by the three bodies, it also highlighted, in particular, the authority of the Secretary of Health and Human Services to change the makeup of those bodies and to appoint individuals who will make recommendations consistent

² Also sometimes referred to as Public Health Services (PHS) Act section 2713(a)(1).

with the Secretary's preferences. The Secretary has, pursuant to this confirmed authority, removed members of ACIP and replaced them with individuals predisposed to the Secretary's policy outcome preferences on vaccines³ and may do the same to the other two recommending bodies.

Recent Modifications to Federal Preventive Services

The change in the membership of ACIP has resulted in new recommendations that have not been supported by evidence.⁴ For example, the reformed membership of ACIP voted in September 2025 to modify recommendations related to measles, mumps, rubella, and varicella (MMRV),⁵ and in December 2025 to no longer recommend that newborns receive a Hepatitis B vaccine within 24 hours of birth and replaced it with a recommendation to consult with their provider about when to administer that vaccine.⁶ The Massachusetts Department of Public Health has released its own analysis of recent ACIP recommendation changes which demonstrate how those new recommendations are not grounded in evidence-based assessments of the underlying research which continues to support the prior recommendations.^{7,8,9}

To date, no official changes have yet occurred on the USPSTF.¹⁰ However, if changes were to occur, there would be no legal backstop to prevent the Secretary from replacing the makeup of this body with individuals who will not make evidence-based, clinical recommendations in the same manner

³ US Department of Health and Human Services. June 9, 2025. HHS Takes Bold Step to Restore Public Trust in Vaccines by Reconstituting ACIP. Retrieved January 27, 2026, from <https://www.hhs.gov/press-room/hhs-restore-public-trust-vaccines-acip.html>

⁴ How States are preserving science-backed recommendations for preventive care and vaccines (2025). The Commonwealth Fund. Retrieved from <https://www.commonwealthfund.org/blog/2025/how-states-are-preserving-science-backed-recommendations-preventive-care-and-vaccines>

⁵ CDC. (September 19, 2025). ACIP Recommends COVID-19 Immunization Based on Individual Decision-making. Retrieved January 27, 2026, from <https://www.hhs.gov/press-room/acip-recommends-covid19-vaccination-individual-decision-making.html>

⁶ CDC. (December 5, 2025). ACIP Recommends Individual-Based Decision-Making for Hepatitis B Vaccine for Infants Born to Women Who Test Negative for the Virus. Retrieved January 27, 2026, from <https://www.cdc.gov/media/releases/2025/2025-acip-recommends-individual-based-decision-making-for-hepatitis-b-vaccine-for-infants-born-to-women.html>

⁷ Massachusetts Department of Public Health (DPH). Guidance on the use of the Measles, Mumps, Rubella Varicella Vaccine (2025). Massachusetts Department of Public Health. Retrieved January 27, 2026, from <https://www.mass.gov/doc/measles-mumps-rubella-varicella-mmr-v-guidance/download>

⁸ Massachusetts Department of Public Health (DPH) Guidance on the Use of the Hepatitis B Vaccine for Infants and Children. (December 2025). Retrieved January 27, 2026, from <https://www.mass.gov/doc/massachusetts-clinical-guidance-on-use-of-the-hepatitis-b-vaccine-for-infants-and-children/download>

⁹ The Division of Insurance issued a bulletin, in reliance on the DPH analysis and recommendations, to instruct fully insured plans in Massachusetts that vaccination coverage and coverage of those vaccines without cost-sharing needs to be consistent with DPH recommendations and to encourage third-party administrators to make their plan sponsor clients aware of the DPH recommended guidelines when they are making choices about their plan designs. Division of Insurance Bulletin 2025-03, "Coverage for Vaccines", Sept. 3, 2025, <https://www.mass.gov/doc/bulletin-2025-03-coverage-for-vaccines-issued-september-3-2025/download>

¹⁰ Huang, P. (July 28, 2025). Medical groups are concerned that RFK Jr. may dismiss a panel of primary care experts. NPR. Retrieved January 27, 2026, from <https://www.npr.org/2025/07/27/nx-s1-5481828/rfk-jr-uspstf-advisory-panel-primary-care>

as what has occurred at ACIP.¹¹ Changes in USPTF recommended services could potentially upend the care access experience for Massachusetts residents.¹²

Recommendation to Preserve Access to Preventive Services

The Health Connector's MCC regulations offer a key avenue to maintain Massachusetts's longstanding commitment to no-cost high-value preventive services by strongly encouraging residents to enroll in plans that meet MCC standards to avoid paying a tax penalty.

Current MCC regulations require a qualifying plan to cover Preventive Health Services, as defined by the ACA. Those services are ones that receive recommendations by one of the three recommending bodies (USPSTF, ACIP, and HRSA). In order to preserve the quality of the services included in the definition of Preventive Health Services, Health Connector staff propose amending the regulations to state that Preventive Health Services will always mean, at a minimum, those services that are included in the definition as of July 1, 2025. (See proposed regulation amendments provided.) This change would allow new recommendations added under the ACA regime to be included, if there are any in the future, but will prevent the erosion of existing benefits if current services lose their "recommended" status.

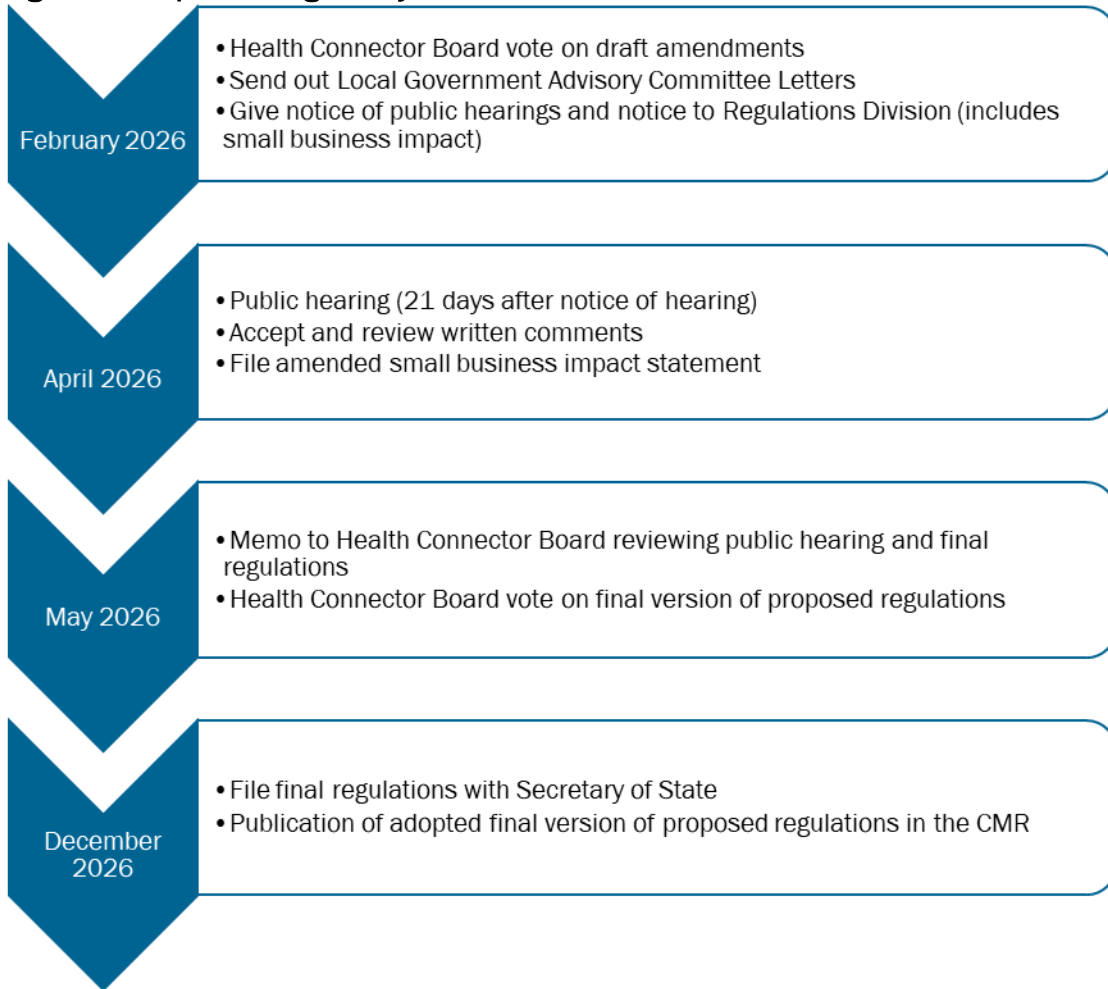
Board Recommendation and Next Steps

Health Connector staff recommend that the Board vote to issue proposed amendments 956 CMR 5.00 that will set a floor for the definition of Preventive Health Services that Massachusetts residents must ensure are covered in their health insurance plans in order to satisfy the Individual Mandate.

¹¹ Recent changes by the CDC to the child vaccination schedule, and the lack of considered process that informed those changes, underscore the risks posed to MCC by a regulatory framework that absorbs federal recommendations from the current federal administration without guardrails. Kates, J. & Michaud, J. (January 9, 2026), *The New Federal Vaccine Schedule for Children: What Changed and What Are the Implications?* Kaiser Family Foundation, Retrieved January 27, 2026, from <https://www.kff.org/other-health/the-new-federal-vaccine-schedule-what-changed/>

¹² Please refer to the Appendix and the USPSTF A and B recommended services.

Figure 1. Proposed Regulatory Timeline



Appendix

This Appendix includes the universe of recommendations from each of the Preventive Health Services informing bodies, as of July 1, 2025.

- U.S. Preventive Services Task Force (USPSTF) Recommended Preventive Services with an “A” or “B” Rating
 - USPSTF Recommended Preventive Services with a “A” or “B” Rating as of July 1, 2025
- Immunizations for routine use in children, adolescents, and adults that have in effect a recommendation from the Advisory Committee on Immunization Practices (ACIP) of the Centers for Disease Control and Prevention (CDC) with respect to the individual involved
 - Recommended Adult Immunization Schedule for ages 19 or older (Revised May 28, 2025)
 - Recommended Child and Adolescent Immunization Schedule for ages 18 years or younger (Revised May 28, 2025)
- Evidence-informed preventive care and screenings provided for in comprehensive guidelines supported by the Health Resources and Services Administration (HRSA) with respect to infants, children, and adolescents;
 - Recommendations for Preventive Pediatric Health Care
 - Recommended Uniform Screening Panel for Newborns
- Additional preventive care and screenings not described in 42 U.S.C. § 300gg-13as provided for in comprehensive guidelines supported by HRSA with respect to women;
 - Recommendations for Women’s Preventive Health Care 2025
 - Recommendations for Well-Women Care, 2025 Clinical Summary Tables