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NEWS FOR IMMEDIATE RELEASE

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AG Kaul Joins Coalition to Protect Patient Access to Preventive Health Care Services

Attorneys General File Brief in Defense of Lifesaving Provision of the ACA

MADISON, Wis. – Attorney General Josh Kaul today joined a coalition of 24 attorneys general in filing an amicus brief to protect a key provision of the Patient Protection and Affordable Care Act (ACA) that guarantees access to critical preventive care for millions of Americans.

Congress enacted the ACA’s preventive services provision because, previously, many Americans struggled to afford preventive care, which can be lifesaving but was often not covered by insurance. The preventive services provision eliminated this financial barrier by requiring most private insurance plans to cover certain preventive services and treatments, such as cancer screenings and vaccinations, without charging out-of-pocket costs, including copayments or deductibles.

“This attempt to weaken coverage requirements would lead to worse health outcomes,” said Attorney General Josh Kaul. “Preventive care saves lives.”

The provision faces a legal challenge in *Braidwood v. Becerra*, filed by several individuals and employers who want to purchase or offer health insurance that does not cover certain preventive services, most notably contraceptive care and prophylactic HIV care. They argue that these requirements should be eliminated for various reasons, including that they violate individuals’ rights under the Religious Freedom Restoration Act (RFRA) and that the process for determining which services are covered under the provision violates the U.S. Constitution’s Appointments Clause.

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The U.S. District Court for the Northern District of Texas partially sided with the plaintiffs, holding that one agency for recommending preventive care was unconstitutionally appointed and that the requirement that insurers cover certain prophylactic HIV medication violated certain plaintiffs' RFRA rights. It then entered sweeping relief, setting aside coverage requirements for many services – ranging from medicine to prevent cardiovascular disease to gestational diabetes screenings for pregnant persons – and restraining the federal government from enforcing these requirements.

The coalition filed their brief in support of the federal government in the 5th Circuit, which is resolving appeals by the federal government and the plaintiffs following the district court's decision. The attorneys general argue that eliminating all or part of the preventive provision would endanger the lives of those whose illnesses could be prevented, exacerbate inequities in access to critical care and severely burden state public health systems. Their brief calls upon the appeals court to reverse the portions of the district court judgment ruling in the plaintiffs' favor and affirm the remainder of the judgment.

The brief notes that many Americans have come to rely on the no-cost health care access provided by the provision. Within four years of the ACA's passage, approximately 76 million Americans gained expanded coverage to one or more preventive services. As of 2020, an estimated 151.6 million people were enrolled in private insurance plans that cover preventive services at no cost to patients.

Preventive services improve public health outcomes by enabling medical professionals to identify and treat illnesses earlier, and, in some cases, entirely prevent them. The brief describes several ways the ACA's provision has improved public health, including increasing rates of screenings for colorectal cancer, the second leading cause of cancer fatalities in America. Colorectal cancer is considered largely preventable with screening, and the increase in screenings after the passage of the ACA led to an associated decrease in colorectal cancer and colorectal cancer deaths.

In addition to saving lives, the provision has expanded health care access for women, including access to contraceptives. It has also reduced socioeconomic, racial and ethnic disparities in health care by expanding access to a variety of preventive services.

Joining Attorney General Kaul in filing the brief are the attorneys general of Arizona, California, Colorado, Connecticut, Delaware, District of Columbia, Hawaii, Illinois,

Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, and Washington.