

# CAPITOL STREET

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April 21, 2025

## SCOTUS May Favor ACA Coverage Mandates Under *Braidwood*

Remanding Case Back to 5th Circuit is Possible, But Less Likely

Relevant Companies

EXACT  
SCIENCES



GUARDANT

HOLOGIC

Myriad  
genetics



GILEAD

GSK

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### »» Our Take & Next Up

**The Supreme Court is likely to uphold the constitutionality of the US Preventive Services Task Force (USPSTF).** Today, the Supreme Court heard oral arguments on the constitutionality of the USPSTF's power to determine preventive services and their coverage by insurers [here](#). A SCOTUS decision is expected by June/early July 2025. We note that current USPSTF recommendations include coverage for screening tests for colorectal cancer (**EXAS, GH**) and breast cancer (**HOLX, MYGN**), along with PrEP for HIV (**GILD, GSK**), among others.

Swing vote Justices Kavanaugh and Barrett appeared skeptical of the plaintiff's argument against the constitutionality of USPSTF, indicating the likelihood of a majority vote (5) to preserve the Task Force, including the appointment of Task Force members and the supervision by the HHS Secretary. Another potential -- but less likely -- solution discussed involves remanding the case back to the 5th Circuit if the members are determined to be inferior officers.

### »» Key Points

**We believe the ACA's preventative care coverage is likely to be upheld by the Supreme Court.** The Court debated the US Preventive Services Task Force's (USPSTF) independence and how it relates to the Secretary's ability to determine Task Force members. They also debated whether its members qualify as "principal officers," requiring presidential appointment and Senate confirmation to be constitutionally valid.

**Swing vote Justices Kavanaugh and Barrett appeared skeptical of the plaintiff's argument.** If Kavanaugh and Barrett vote with the three Democratic appointees (Justices Sotomayor, Kagan, and Jackson) in favor of the government, there may be five votes in favor of upholding the ACA coverage mandates that are based on task force recommendations. Justice Kavanaugh noted, "We usually don't interpret statutes to create independent agencies," suggesting he views the USPSTF as an "inferior officer." Meanwhile, Barrett referenced the doctrine of "constitutional avoidance," which holds that when a statute can be interpreted in multiple ways, courts should choose an interpretation that steers clear of potential constitutional issues.

**The Trump administration defended the authority of the USPSTF arguing that it is made up of “inferior officers” rather than “principal officers,” which makes it constitutional.** If SCOTUS agrees with the government, HHS will likely be given more authority to select Task Force members and shape preventive care recommendations. Another possibility is the preventive mandate might be struck down altogether if the Court finds the Task Force to be unconstitutional.

- **The likely remedy from SCOTUS is reclassifying USPSTF officers as “inferior officers” who are supervised and can be removed by the HHS Secretary.** This fix would allow SCOTUS to avoid dismantling the ACA preventative mandate, which could lead to an inconsistent preventative coverage landscape.
- **Post-ruling, we envision HHS Secretary Kennedy as being likely to reshape the USPSTF and recommendations.** With HHS oversight of committee membership, RFK may seek to place members, such as holistic medicine experts, to shape recommendations favorably for services not traditionally covered.

**Justices Gorsuch and Barrett also discussed remanding the case back to the 5th Circuit,** based on the uncertainty of whether the HHS Secretary or Director of AHRQ is charged with appointing members of the task force. This is an unlikely, but possible outcome that would remand the case back to the conservative 5th Circuit court.

**The decision could create an inconsistent coverage landscape for preventative care.** ACA enrollment reached a record high of 24 M enrollees in 2024 ([here](#)). If ACA coverage is struck down, some plans may opt out of certain preventative services based on the cost-benefit analysis and their enrollment demographics. We note that the federal subsidies are set to expire at the end of 2025, unless there is an extension by Dec 31, 2025. We believe that ACA subsidies will be extended in the upcoming Reconciliation package at a lower level, for 2 or so years, to avoid premium spikes and loss of insurance benefits.

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