PrEP Cost Sharing Complaint Template

Instructions: The following template is meant to assist providers and patients file a complaint about an uncompliant health plan. Complete the items in the brackets below to the best of your ability.

[DATE]

NOTE: The bulleted list below provides information on how to find the applicable regulator’s contact information. Remove the other regulator contacts before sending the final letter.

[REGULATOR]

* State Department of Insurance
  + Regulates: individual market (on and off Marketplace), small group fully insured market, large group fully insured market
  + Contact information available through [NAIC consumer resources](https://content.naic.org/consumer.htm) (scroll to find contact information for your state)
* Department of Labor (DOL)
  + Regulates: Self-funded employer plans
  + [Employee Benefits Security Administration complaint portal](https://www.askebsa.dol.gov/WebIntake/?_ga=2.228831390.345169218.1649512453-291991894.1649512453)
  + *NOTE: it may be advisable to first send your complaint to your employer’s Human Resources department before elevating to DOL*
* Centers for Medicare and Medicaid Services (CMS)
  + Regulates: Self-funded non-federal government plan
  + Email: NonFed@cms.hhs.gov
  + *NOTE: it may be advisable to first send your complaint to your employer’s Human Resources department before elevating to CMS*

Re: PrEP coverage for [BENEFICIARY NAME]

To Whom It May Concern:

I am an enrollee of [NAME OF PLAN] through my [NAME OF EMPLOYER OR IF INDIVIDUAL MARKET REFERENCE IF IT WAS PURCHASED ON MARKETPLACE OR OFF MARKETPLACE]. For the current plan year [REFERENCE PLAN YEAR) the plan ID is: [PLAN ID]. I am writing to appeal and request review of the plan’s decision and overall policy to charge for cost sharing associated with pre-exposure prophylaxis (PrEP), a covered preventive service. This practice violates the Affordable Care Act (ACA) preventive services coverage and cost-sharing protections.

My plan is a [FILL IN PLAN TYPE]

* Qualified Health Plan (QHP) sold in the [INDIVIDUAL OR SMALL GROUP] group [MARKETPLACE OR OFF-MARKETPLACE] market in [STATE]
* Self-funded non-federal government plan (e.g., a plan offered by a municipality)
* Self-funded employer plan
* Large group employer plan (fully insured)
* Small group employer plan (fully insured)

As such, it is subject to the ACA’s Essential Health Benefits requirements, including the preventive services coverage and cost-sharing provisions codified at 42 USC §300gg–13 and 29 CFR § 2590.715-2713. Under these provisions, non-grandfathered group health plans are required to cover services with a Grade A or B from the U.S. Preventives Services Task Force (USPSTF) without cost sharing, starting no later than the plan year beginning one year after the final recommendation. In June of 2019, the USPSTF gave PrEP final Grade A recommendation.[[1]](#footnote-2) In July 2021, the Departments of Labor, Health and Human Services, and Treasury issued guidance for plans on implementation of the coverage and cost-sharing requirements.[[2]](#footnote-3) The guidance clarifies that in addition to providing access to the PrEP medication without cost sharing, plans also must cover the following ancillary services without cost sharing:

* HIV testing, including HIV-1 RNA testing (at initiation and every three months consistent with CDC guidelines[[3]](#footnote-4))
* Hepatitis B and C testing (at initiation and periodically consistent with CDC guidelines)
* Creatinine testing and calculated estimated creatine clearance (eCrCl) or glomerular filtration rate (eGFR) (at initiation and periodically consistent with CDC guidelines)
* Sexually transmitted infection screening and counseling (at initiation and periodically consistent with CDC guidelines, including three-site anatomic testing gonorrhea and chlamydia and testing for syphilis, together with behavioral counseling)
* Adherence counseling (at initiation and regularly consistent with CDC guidelines)
* Office visits associated with each recommended preventive service when the primary purpose of the office visit is the delivery of the recommended preventive service.

Despite these clear requirements, I have been charged deductibles and/or cost sharing to access PrEP, including the following:

* [LIST ALL DATES OF SERVICES, THE PROVIDER WHO PROVIDED SERVICES AND WHETHER THAT PROVIDER WAS IN THE PLAN’S NETWORK, AND ALL COST SHARING CHARGED. YOU CAN GET THIS INFORMATION FROM LOOKING AT BOTH YOUR EXPLANATION OF BENEFITS FROM YOUR INSURER AND YOUR PROVIDER PORTAL WHICH WILL LIST THE SPECIFIC SERVICES AND LABS PROVIDED. BE AS SPECIFIC AS POSSIBLE].

According to federal law and according to the terms of my plan’s coverage documents, I should not have been charged any cost sharing associated with PrEP, a USPSTF Grade A recommended service. I request that [PLAN NAME] immediately reimburse me for erroneous cost sharing already paid for PrEP and waive the remainder of cost sharing that [LAB AND/OR PROVIDER] has billed me. I also request that [PLAN NAME] swiftly adopt a coverage and cost-sharing policy for PrEP that is in line with federal law, regulation, and guidance, treating PrEP like it treats other ACA preventive services. This must include allowing beneficiaries to access these preventive services without cost sharing at point of service and without an arduous appeals process. Treating PrEP differently from other covered preventive services raises concerns of discriminatory plan design in violation of 42 U.S.C. § 18116 and 45 CFR § 146.121. Moreover, PrEP is a highly effective HIV prevention tool. The actions of [PLAN NAME], however, create arbitrary financial and administrative barriers to PrEP and will undoubtedly have negative individual and public health consequences.

Thank you for your prompt attention to this matter. I can be reached at [NUMBER AND EMAIL]

Sincerely,

1. USPSTF, Final Recommendation Statement, Prevention of Human Immunodeficiency Virus (HIV) Infection: Preexposure Prophylaxis (June 2019) available at <https://www.uspreventiveservicestaskforce.org/home/getfilebytoken/poDYcagnw7SqKNNbrFt_CV>. [↑](#footnote-ref-2)
2. Departments of Labor, Health and Human Services, and the Treasury, FAQs about ACA Implementation Part 47 (July 19, 2021), available at <https://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/FAQs-Part-47.pdf>. [↑](#footnote-ref-3)
3. US Public Health Service, Preexposure Prophylaxis for the Prevention of HIV Infection in the United States-2021 Update: A Clinical Practice Guidelines (December 2021) available at <https://www.cdc.gov/hiv/pdf/risk/prep/cdc-hiv-prep-guidelines-2021.pdf> [↑](#footnote-ref-4)