Katie Garfield, JD
Clinical Instructor
Center for Health Law and Policy Innovation
Harvard Law School

chalpi.org
I. Goals / Audience for the Project
II. Overview of the Resource
III. Questions
GOALS / AUDIENCE FOR THE PROJECT

Goals

• Address basic questions regarding coverage, costs, and billing requirements for tobacco cessation medications/services being provided to adults

• Provide education on how to research potential changes

Target Audience

• Individuals and institutions receiving help from LuCa and working to connect patients to lung cancer screening and prevention services

• Example: Patient Navigators
OVERVIEW OF THE RESOURCES

• Part I: Overview of Insurance / Payer Coverage

• Part II: Conducting Your Own Research

• Part III: Frequently Asked Questions

• Part IV: Additional Resources
Tobacco Cessation Counseling

A blanket term for behavioral interventions to encourage individuals to cease use of cigarettes and other tobacco products. Counseling may be provided individually or in a group and may be in-person or over the phone.

Tobacco Cessation Medications

Over-the-counter and prescription medications used to support patients in their efforts to quit tobacco use.

- FDA approved medications:
  - Nicotine replacement therapies (patch, gum, inhaler, nasal spray, or lozenge),
  - Bupropion SR, and
  - Varenicline.
Public Payers

Medicaid

- **Traditional**: Low income families, children, pregnant women, elderly, people with disabilities
- **Expansion**: Adults with incomes up to 138% of federal poverty level

Medicare

- **Original Medicare**: Individuals aged 65+, some disabled individuals, individuals living with ESRD or ALS
- **Medicaid Advantage**: Original Medicare, but delivered by private plans

Private Payers

**Group / Individual**: Private insurance purchased for members of a group (e.g., employees) or directly by an individual (e.g., on a state marketplace)

**Short-Term Health Insurance Plans**: Temporary insurance coverage.
OVERVIEW OF COVERAGE: COUNSELING

Caveats:

- Resource describes **general rules**
  - Gaps in implementation **do** occur, and some rules allow flexibility
- When in doubt, consult individual plan documents!
- The resource describes cost-sharing for the service/medication **itself**
- Patients may face **additional** charges under certain circumstances (e.g., when receiving additional services)
OVERVIEW OF COVERAGE: MEDICATIONS

Caveats:

• Resource describes **general rules**
  • Gaps in implementation **do** occur, and some rules allow flexibility
  • When in doubt, consult individual plan documents!

• The resource describes cost-sharing for the service/medication **itself**
  • Patients may face **additional** charges under certain circumstances (e.g., when receiving additional services)

<table>
<thead>
<tr>
<th>Insurer</th>
<th>Coverage (Y/N)</th>
<th>Population Covered</th>
<th>Cost-Sharing</th>
<th>Details / Limitations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medicaid (Traditional)³</td>
<td>Yes</td>
<td>Adults who are not pregnant who currently use tobacco.</td>
<td>Varies³</td>
<td>Should include all prescription and over-the-counter tobacco cessation medications approved by FDA.³</td>
</tr>
<tr>
<td>Medicaid (Traditional—Pregnant Women)³</td>
<td>Yes</td>
<td>Pregnant women who currently use tobacco.</td>
<td>No³</td>
<td>Should include all prescription and over-the-counter tobacco cessation medications approved by FDA.³</td>
</tr>
<tr>
<td>Medicaid (Expansion)⁶</td>
<td>Yes</td>
<td>Adults who are not pregnant who currently use tobacco.</td>
<td>No⁶</td>
<td>The U.S. Departments of Health and Human Services, Labor, and Treasury have provided guidance indicating coverage that includes the following would be considered compliant with coverage requirements:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>• All prescription and over-the-counter tobacco cessation medications approved by FDA</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>• For a 90-day treatment regimen, when prescribed by a health care provider</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>• Without prior authorization</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>However, the guidance leaves some room for variation, and so patients and providers should check with the individual plan to confirm coverage details.⁶</td>
</tr>
<tr>
<td>Original Medicare¹⁰ (Part D)</td>
<td>Yes</td>
<td>Individuals who receive prescription drug coverage through Medicare Part D.</td>
<td>Varies¹¹</td>
<td>Medicare Part D cover at least some prescription tobacco cessation medications,¹² but generally will not cover over-the-counter tobacco cessation medications.¹³</td>
</tr>
<tr>
<td>Medicare Advantage¹⁴</td>
<td>Yes</td>
<td>Individuals who receive prescription drug coverage through their Medicare Advantage plan.</td>
<td>Varies¹⁵</td>
<td>Medicare Advantage plans can go beyond Medicare Part D and choose to cover over-the-counter medications as supplemental benefits.¹⁴</td>
</tr>
<tr>
<td>Group / Individual⁹ (non-grandfathered)¹⁰</td>
<td>Yes</td>
<td>Adults who are not pregnant who currently use tobacco.</td>
<td>No¹⁰</td>
<td>The U.S. Departments of Health and Human Services, Labor, and Treasury have provided guidance indicating coverage that includes the following would be considered compliant with coverage requirements:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>• All prescription and over-the-counter tobacco cessation medications approved by FDA</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>• For a 90-day treatment regimen, when prescribed by a health care provider</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>• Without prior authorization</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>However, the guidance leaves some room for variation, and so patients and providers should check with the individual plan to confirm coverage details.¹⁰</td>
</tr>
<tr>
<td>Short-term Health Insurance Plans</td>
<td>Varies</td>
<td>Varies</td>
<td>Varies</td>
<td>Short-term health insurance plans are not considered individual health insurance plans and are subject to the Essential Health Benefits or preventive service coverage requirements of the Affordable Care Act.¹⁶ Coverage and cost-sharing for tobacco cessation medications in these plans therefore may vary greatly.</td>
</tr>
</tbody>
</table>
Example: Medicaid Coverage of Cessation Medications

Coverage will depend on:

• The Medicaid **population** (Traditional vs. Pregnant vs. Expansion)

• Medicaid Section 1927 drug coverage **requirements**

• United States Preventive Services Task Force (USPSTF) **rating**

USPSTF COVERAGE RECOMMENDATIONS

**Traditional Medicaid**

- **Section 1927** of the Social Security Act requires coverage of tobacco cessation medications for Traditional Medicaid and pregnant women.

**Medicaid Expansion**

- Must follow Essential Health Benefit rules, requiring coverage of at least one drug in each class (more if more covered in benchmark plan), **AND**
- States **must** cover all USPSTF “A” and “B” rated services for individuals in the Medicaid Expansion population **without** cost-sharing

**Caveat:** Stay up to date on USPSTF recommendations, as they change

- Tobacco Cessation recommendation is being **updated**
USPSTF COVERAGE RECOMMENDATIONS

https://www.uspreventiveservicestaskforce.org/
USPSTF COVERAGE RECOMMENDATIONS

**Prevention and Cessation of Tobacco Use in Children and Adolescents: Primary Care Interventions**
- Type: Counseling
- Year: 2013
- Age Group: Adolescent, Pediatric
- Status: Published

**Tobacco Smoking Cessation in Adults, Including Pregnant Women: Behavioral and Pharmacotherapy Interventions**
- Type: Counseling, Preventive medication
- Year: 2015
- Age Group: Adult, Senior
- Status: Published

**Tobacco Smoking Cessation in Adults, Including Pregnant Women: Interventions**
- Type: Counseling, Preventive medication
- Age Group: Adult, Senior
- Status: In Progress

**Tobacco Use in Children and Adolescents: Primary Care Interventions**
- Type: Counseling
- Year: 2013
- Age Group: Adolescent, Pediatric
- Status: Published

---

**Population** | **Recommendation** | **Grade (What’s This?)**
---|---|---
Adults who are not pregnant | The USPSTF recommends that clinicians ask all adults about tobacco use, advise them to stop using tobacco, and provide behavioral interventions and U.S. Food and Drug Administration (FDA)–approved pharmacotherapy for cessation to adults who use tobacco. | A
Example: Medicare Coverage of Cessation Counseling

Coverage will depend on:

- United States Preventive Services Task Force (USPSTF) rating

- National Coverage Determination (NCD)

- Medicare Manuals and Transmittals
Requirements for Medicare Coverage of Preventive Services (if not individually listed in the law):

- Reasonable and necessary for the prevention or early detection of an illness or disability;
- Recommended with a grade of A or B by the United States Preventive Services Task Force; and
- Appropriate for individuals entitled to benefits under Part A or enrolled under Part B.

- The Secretary of Health and Human Services (HHS) makes these decisions through National Coverage Determinations.
National Coverage Determination Database.

https://www.cms.gov/medicare-coverage-database/

Counseling to Prevent Tobacco Use
Medicare Manuals

- Provide additional details on coverage and delivery of Medicare services
- Can be found here:

Medicare Change Request Transmittals

- Announce official changes to the Medicare Manuals
- Can be found here:
Example: Group / Individual Coverage of Cessation Medications

• Coverage will depend on:

  • In some cases (individual and small group), **Essential Health Benefits** requirements
  
  • United States Preventive Services Task Force (USPSTF) **rating**
  
  • Whether the plan is “**grandfathered**”
  
  • Whether the plan is a **short-term** plan
All non-grandfathered private insurance plans must cover USPSTF “A” and “B” rated services without cost-sharing.

- Many events can cause a plan to lose its grandfathered status including:
  - Elimination of all or substantially all benefits to diagnose or treat a particular condition
  - An increase in cost-sharing requirements
  - An increase in annual limits

Short-term plans are NOT considered individual insurance under the ACA.

- Exempt from the preventive services requirements
Poll Question #4
Which challenges/barriers have you encountered the most? (select all that apply)
A. Coverage denials
B. Inconsistent or unknown coding requirements
C. Not worth the time to bill for the reimbursement
D. Not able to spend the counseling time required for reimbursement
E. Not as much coverage for over the counter medications as for prescription medications
F. I provide counseling, but am not eligible for reimbursement
G. “Grandfathered” plans / plans with loopholes
H. Other
FREQUENTLY ASKED QUESTIONS (FAQ)

• What if a Patient Lacks Insurance?

• What is Prior Authorization?

• What if Cessation Counseling or Medications are Delivered by an Out-of-Network Provider or Pharmacy?

• What Codes Must I Provide When Billing Original Medicare for Tobacco Cessation Counseling?
What if Tobacco Cessation Counseling or Medications are Delivered by an Out-of-Network Provider?

• Patient may face additional costs
  
  • ACA does **not** require private plans to cover USPSTF “A” and “B” rated services that are provided out-of-network **unless** the plan does **not** have in-network providers that can deliver the benefit
  
  • Patients in Original Medicare and Medicare Advantage may also face additional costs if they receive tobacco cessation counseling or medications from out-of-network providers (e.g., opt-out and non-participating providers for Original Medicare)
Tobacco Cessation Counseling Coding in Original Medicare

<table>
<thead>
<tr>
<th>Code(s)</th>
<th>Notes</th>
<th>Detailed Resources on Proper Coding</th>
</tr>
</thead>
</table>
| 99406 (intermediate) | * Scope of Benefit:  
  - Two (2) individual tobacco cessation attempts per 12-month period;  
  - Each attempt may include a maximum of 4 intermediate or intensive sessions  
  - A total of 8 sessions per year.  
    - A full 11 months must pass after the initial session before sessions beyond the original 8 may be provided. “To start the count for the second or subsequent 12-month period, begin with the month after the month in which the first Medicare covered counseling session was performed and count until 11 full months have elapsed.”  
* Definitions:  
  - Intermediate: Counseling visit is greater than 3 minutes, but not more than 10 minutes  
  - Intensive: Counseling visit is greater than 10 minutes  
* Minimal cessation counseling (3 minutes or less) is considered part of each Evaluation and Management visit and is not separately billable.  
* Symptoms: Medicare no longer differentiates between symptomatic and asymptomatic patients for these services.  
* Provider: Counseling must be provided by a qualified physician or other Medicare-recognized provider. Non-recognized providers, such as Tobacco Treatment Specialists are not eligible for Medicare reimbursement.  
| 99407 (intensive) | Service must be billed with proper ICD-10 diagnosis code, such as:  
  - F17.210 (Nicotine dependence, cigarettes; uncomplicated)  
  - F17.211 (Nicotine dependence, cigarettes, in remission)  
  - F17.213 (Nicotine dependence, cigarettes, with withdrawal)  
  - F17.218 (Nicotine dependence, cigarettes, with other nicotine-induced disorders)  
  - F17.219 (Nicotine dependence, cigarettes, with unspecified nicotine-induced disorders)  
  - F17.220 (Nicotine dependence, chewing tobacco, uncomplicated)  
For a full list, see Medicare Claims Processing Manual, Ch. 32 – Billing Requirements for Special Service, Section 12.1. |

- Medicare National Coverage Determination (NCD) Manual (CMS Pub. 100-3)  
- Medicare Claims Processing Manual, Ch. 32 – Billing Requirements for Special Services, Section 12  
- Transmittal 3848
## ADDITIONAL RESOURCES

<table>
<thead>
<tr>
<th>Resource</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>American Cancer Society Cancer Action Network</strong>: Tobacco Cessation Insurance Coverage</td>
<td>The American Cancer Society Cancer Action Network (ACS CAN) provides an overview of tobacco cessation insurance coverage and related issues, such as cost-sharing and prior authorization. ACS CAN also provides recommendations on policy changes to improve access to these services.</td>
</tr>
<tr>
<td><strong>American Lung Association</strong>: State Tobacco Cessation Coverage</td>
<td>ALA provides a state-by-state analysis of coverage of tobacco cessation services across state insurance programs including Medicaid, individual plans, and the state employee health plan.</td>
</tr>
</tbody>
</table>