



March 26, 2024

The Honorable Mia Bonta  
Chair, California Assembly Committee on Health  
1020 N Street, Room 390  
Sacramento, CA 95814

The Honorable Richard D. Roth  
Chair, California Senate Committee on Health  
1021 O Street, Room 3310  
Sacramento, CA 95814

**Re: Letter to the 2023-24 California State Legislature on Assembly Bill 3245: Colorectal Cancer Screening.**

Dear Chairs Bonta and Roth:

The California Health Benefits Review Program (CHBRP) was asked by Assembly Health Committee staff on February 20, 2024, to provide an analysis of AB 3245 (Patterson) Colorectal Cancer Screening. During the analysis, CHBRP determined that AB 3245 would not result in a change of benefit coverage (based on currently established recommendations for colorectal screening tests), and therefore, there would be no impact in the first year postmandate of AB 3245 as introduced. However, should there be new evidence-based guidelines or newly recommended screening test(s) that are different from those currently recommended by the United States Preventive Services Task Force (USPSTF), health plans and policies in California would be required to cover these newly specified tests without cost sharing. In such circumstances, these would potentially result in changes to the utilization of these screening tests and potential changes in health care expenditures. CHBRP assumes relevant evidence-based guidelines would not need to use an A/B rating as the USPSTF does, although it is possible to interpret the language of AB 3245 as requiring such.

This letter summarizes the bill language, ambiguities, CHBRP's assumptions regarding bill language interpretation, existing requirements for health plans and policies to cover colorectal cancer screening, and other relevant information.

***AB 3245 Colorectal Cancer Screening Bill Language***

Existing California law requires Department of Managed Health Care (DMHC)–regulated health plans and California Department of Insurance (CDI)–regulated health policies to cover without cost sharing colorectal cancer screening assigned either an A or B grade by the USPSTF. Existing law

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also states that the required follow-up colonoscopy for a positive result on another colorectal cancer screening test assigned an A or B grade by the USPSTF should also be provided without cost sharing.

AB 3245, as introduced, would add the requirement to cover without cost sharing colorectal cancer screening tests identified by accredited or certified guideline agencies, including the American Cancer Society and its guidelines.

### **Ambiguities and Assumptions Regarding Bill Language**

CHBRP makes the following assumptions regarding the bill language of AB 3245 as introduced:

- “Accredited or certified guidelines” would equate to evidence-based guidelines, which are statements that are informed by a systematic review of the evidence and an assessment of the benefits and harms of alternative options.
- Screening tests or frequency of testing required to be covered would not include those that have very low-quality evidence. It is possible to interpret the bill language as requiring other guidelines to also use an A/B rating scale when evaluating evidence, but an A/B rating is not a universal measure for determining the strength of evidence-based recommendations.

### ***Existing Guidelines for Colorectal Cancer Screening***

USPSTF currently recommends colorectal cancer screening tests for asymptomatic persons at average risk aged 45 to 49 (B grade) and aged 50 to 75 (A grade).<sup>1</sup> The recommended tests and frequency of testing are:

- High-sensitivity guaiac fecal occult blood test (gFOBT) or fecal immunochemical test (FIT) every year
- Stool DNA-FIT (sDNA-FIT) every 1 to 3 years
- CT colonography every 5 years
- Flexible sigmoidoscopy every 5 years
- Flexible sigmoidoscopy every 10 years + FIT every year
- Colonoscopy screening every 10 years

CHBRP examined guidelines from US-based entities including the American College of Physicians, American College of Radiology, American Cancer Society, American College of Gastroenterology (and summarized by the American Academy of Family Physicians), American Gastroenterological Association, American Society of Clinical Oncology, National Comprehensive Cancer Network, and the US Multi-Society Task Force. Recommendations from these guidelines are in line with the grade A/B USPSTF recommendations. There are no recommendations supported by high-quality evidence that are beyond what USPSTF currently recommends with an A or B grade.

CHBRP completed this review of guidelines in February and March of 2024. Should new guidelines from other organizations recommend screening that is more expansive than existing USPSTF guidelines, AB 3245 would require plans and policies to newly cover without cost sharing the specified colorectal cancer screening tests, including changes in frequency and age of recommended screening tests. For example, a March 2024 study describes a newly developed

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<sup>1</sup> USPSTF. Final Recommendation for Colorectal Cancer Screening. 2021. Available at: <https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/colorectal-cancer-screening>. Accessed March 12, 2024.

blood-based colorectal cancer screening.<sup>2</sup> Should an organization such as the American Cancer Society determine there is enough evidence to recommend this new modality of colorectal cancer screening before the USPSTF reviews the evidence and makes a recommendation, AB 3245 would require coverage without cost sharing of this blood test.

## California and Federal Policy Context

The federal Affordable Care Act (ACA) requires coverage without cost sharing of preventive services as recommended by the USPSTF with an A/B rating for nongrandfathered plans and policies.<sup>3</sup> A recent court case, *Braidwood Management Inc. v. Becerra*, was brought forth by plaintiffs who assert, among other points, that the requirements in the ACA for specific expert committees and a federal government agency to recommend covered preventive services are unconstitutional. “In September 2022, Texas U.S. District Court Judge Reed O’Connor ruled that the preventive service requirement for USPSTF recommendations was unconstitutional because the task force members are neither appointed by the President nor confirmed by the Senate, thereby violating the Appointments Clause.”<sup>4</sup> The 5<sup>th</sup> Circuit Court of Appeals issued an administrative stay of the Texas U.S. District Court Judge’s 2022 ruling while the decision is being appealed. Oral arguments were heard by the 5<sup>th</sup> Circuit Court of Appeals in March 2024.

Existing California law that requires coverage without cost sharing of colorectal cancer screening tests is part of California’s larger preventive services mandate, which is largely modeled after the ACA preventive services mandate. Should future court decisions uphold a portion or all of the lower court’s ruling, federal and state governments may be prohibited from requiring health insurers to cover some or all preventive services as recommended by the USPSTF.

## Conclusion

AB 3245 as introduced, with the above-noted assumptions, would not result in a change in benefit coverage for enrollees in DMHC-regulated plans and CDI-regulated policies because the guidelines for colorectal cancer screening as recommended with an A or B grade by the USPSTF are the broadest, as of March 2024. Plans and policies are already required to cover colorectal cancer screening without cost sharing with these guidelines. However, should another organization release colorectal cancer screening guidelines that are more expansive than those of the USPSTF, AB 3245 would result in a change in benefit coverage and therefore a change in utilization of screening tests and health care expenditures.

CHBRP’s faculty and staff appreciate the opportunity to provide this analysis and will be happy to respond to any of your questions.



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Director  
California Health Benefits Review Program

<sup>2</sup> Chung DC, Gray DM, Singh H, et al. A Cell-Free DNA Blood-Based Test for Colorectal Cancer Screening. *New England Journal of Medicine*. 2024;390:973-983. Available at: <https://www.nejm.org/doi/full/10.1056/NEJMoa2304714>

<sup>3</sup> More information about the ACA’s preventive services mandate is available in CHBRP’s resource *Federal Recommendations and the California and Federal Preventive Services Benefit Mandate*, available at: <https://www.chbrp.org/other-publications/resources>

<sup>4</sup> Center for Value-Based Insurance Design. Clinical and Equity Implications of *Braidwood v. Becerra*. 2023. Available at: <https://vbidcenter.org/clinical-and-equity-implications-of-braidwood-v-becerra/>. Accessed March 14, 2024.