



Tobacco Cessation Coverage Considerations: People with Disabilities

Note: references to tobacco refer to commercial tobacco and not sacred and traditional tobacco that may be used for ceremonial or medicinal purposes by some Tribal communities.

Tobacco use is the leading cause of death and disease in the United States, claiming the lives of approximately half a million people a year.¹ Additionally, 16 million people in the United States live with a smoking-related disease.² There is broad discourse about the relationship between tobacco use and smoking as the cause of disease, but very little on people living with disabilities and tobacco cessation. The Centers for Disease Control and Prevention (CDC) reports that 18.5% of people with a disability smoke, while only 10.9% of people without a disability smoke.³ This issue brief aims to explore unique considerations for the coverage of tobacco cessation treatment for people with disabilities.

What is a Disability?

The definition of disability can be broad and is frequently dependent on situation. For the CDC study referenced above, the definition of disability was based on self-reported presence of various limitations. Those included limitations on vision, hearing, mobility, remembering or concentration, self-care and communication. This is only one definition of disability. Depending on the circumstance, having a disability can qualify some individuals for other types of healthcare coverage. This variation in coverage will impact the type of tobacco cessation treatment a person can access via their insurance coverage.

There are two key legal definitions of disability under federal law relevant to health insurance coverage. The first is the definition from the *Americans with Disabilities Act (ADA)*.⁴ This law, enacted in 1990 and amended in 2008, defines disability, in part, as, “a physical or mental impairment that substantially limits one or more major life activities.” The ADA requires public entities (businesses open to the public and state and local governments) to make reasonable modifications for people with disabilities (as defined by the ADA) to enjoy equal opportunity. For example, businesses with a “no dog” rule would have to be modified to allow entry of a service animal. Another example of a modification could be a clothing store allowing a customer with a disability to have a companion in the fitting room, despite a general policy against more than one person in the fitting room at a time.⁵



Another legal definition of disability in federal law is from the Social Security Administration. The Social Security Administration has a five question test to determine if a person meets Social Security’s definition of disability (in order to be eligible for benefits). The five questions to qualify for Social Security Disability Insurance are:

1. Is the individual working?
2. Is the condition [they report] “severe”?
3. Is the condition found in the list of [disabling conditions](#)?
4. Can the individual do the work they previously did?
5. Can the individual do other types of work?

These questions are designed to determine if an individual cannot work at their current position, adjust their work or find other work and whether they have a condition that is expected to last at least a year or result in death.⁶ The Social Security Administration has a separate set of definitions for individuals who are blind or have low-vision.

Depending on the definition of disability used and circumstance, having a disability can qualify some individuals for specific types of healthcare coverage. This might impact what tobacco cessation treatment a person can access via their insurance coverage.

Considerations for Healthcare Coverage

The U.S. Surgeon General has concluded that quitting smoking can improve health status and enhance quality of life.⁷ The Surgeon General also concluded that, “insurance coverage for smoking cessation treatment that is comprehensive, barrier-free, and widely promoted increases the use of these treatment services, leads to higher rates of successful quitting, and is cost-effective.”⁸ Recognizing this, it is important to consider how people with disabilities access tobacco cessation treatment via their health insurance and how access to those treatments differs for people with disabilities versus people without disabilities.

Private Insurance

Most individuals with a disability, as defined by the Americans with Disabilities Act, will have health insurance in the same manner that they would if they did not have a disability. Most people in the United States have insurance through their employer or a family member’s employer. This is called employer-sponsored private insurance. The majority of these plans are required to cover a comprehensive tobacco cessation benefit, defined by the United States Preventive Services Task Force (USPSTF), without cost-sharing.

Comprehensive Tobacco Cessation Benefit:

Seven FDA-Approved Medications:

- NRT Gum
- NRT Patch
- NRT Lozenge
- NRT Inhaler
- NRT Nasal Spray
- Bupropion
- Varenicline

Three Forms of Counseling:

- Individual
- Group
- Phone

* Severe is defined as: the condition must significantly limit the person’s ability to do basic work-related activities for at least 12 months.



This does not mean individuals with disabilities on private plans can easily access preventive services, which include tobacco cessation treatment. A recent report on access to preventive services noted, “payer guidance documents we reviewed were also notable for lack of inclusion of any considerations for provision of preventive services for people with disabilities who may require access to services in different settings or by specialty providers.”⁹ The same report called for more analysis of access to preventive services specifically for people with disabilities.

People with disabilities can and do also access health insurance via the health insurance marketplace or qualify for Medicaid coverage due to income status. The coverage of tobacco cessation treatment would not differ due to their disability status.

Medicare and Medicaid

In some cases, individuals with disabilities qualify for either Medicaid or Medicare coverage. There are two programs administered by the Social Security Administration that provide income for individuals with disabilities. In addition to being eligible to receive income, these individuals also qualify for Medicare or Medicaid.¹⁰

The Supplemental Security Income (SSI) program provides cash assistance from the Social Security Administration for people over 65 years of age or people with disabilities with limited income and resources. Individuals with SSI automatically qualify for Medicaid in most states.¹¹ Most state Medicaid programs cover at least some tobacco cessation treatment, but there are gaps in coverage and many states have barriers to access treatment.¹²

Social Security Disability Insurance (SSDI) is a cash benefit program that individuals qualify for based on their disability as defined by the Social Security Administration (see above) and their work history. Individuals who receive SSDI benefits automatically qualify for Medicare after a 24-month waiting period. Qualifying for SSDI is an onerous and long process for applicants.¹³ Individuals with certain acute conditions are not subject to the waiting period for Medicare coverage.¹⁴ In terms of tobacco cessation, Medicare covers prescription-only medications (NRT Inhaler, NRT Nasal Spray, Bupropion and Varenicline) and eight sessions of individual counseling per year without cost-sharing.¹⁵ This coverage is less generous than what is required for most private insurance and Medicaid programs.

VA Health Care

Approximately 30% of veterans have a service-connected disability.¹⁶ These individuals most likely receive healthcare through the Veteran’s Administration (VA), although some individuals may access care in other ways.¹⁷ VA Health Care currently covers some tobacco cessation medications.¹⁸ They include Nicotine Replacement Therapy (NRT) Gum, NRT Patch, NRT Lozenge, Bupropion and Varenicline.¹⁹ The NRT Gum, NRT Patch, NRT Lozenge, and Bupropion are all considered first line treatments either when taken on their own or as part of a combination therapy. Varenicline is available, but it is considered second line treatment. A veteran needs to have the history of a previous quit attempt with one of the other medications first before being prescribed varenicline. VA Health Care currently covers all three forms of tobacco cessation counseling.



Additional Legal Protections

In addition to the Americans with Disabilities Act, there are additional legal protections in most healthcare programs for people with disabilities. These include Section 504 of the Rehabilitation Act of 1973 and, more recently, Section 1557 of the Affordable Care Act each of which prohibit discrimination on the basis of disability in health programs and activities.^{20,21} Any health program, including providers, hospitals, health insurers and others that receive federal funding from the Department of Health of Human Services have to comply with the 1557 rules. These rules include making communications accessible for people with disabilities, ensuring people can physically access the healthcare space and prohibiting discrimination on the basis of disability in plan design.²²

What does this mean for state tobacco control programs?

State tobacco control programs are charged with reducing tobacco use in their state. That includes working to improve tobacco cessation coverage and educating providers on the coverage that exists. To make sure those efforts include people with disabilities, state tobacco control program staff need to understand the differences in insurance coverage.

First, it is important to understand that having a disability does not qualify an individual for a unique health insurance program, in most circumstances. Many people with disabilities have the same types health insurance as the general population, with the same tobacco cessation coverage requirements. However, people with disabilities cannot be discriminated against as it relates to healthcare.

Secondly, some people with disabilities have either Medicare or Medicaid coverage due to receiving SSDI or SSI. For these individuals, the typical age eligibility associated with these types of coverage may not apply. There will be differences in promoting benefits and billing for services provided. State tobacco control programs should be aware of these nuances when working to improve tobacco cessation coverage in their state.

Conclusion

Quitting tobacco is the best thing a person can do for their health. Understanding the nuances of federal rights and health insurance coverage related to people with disabilities can help state tobacco control programs ensure everyone has equitable access to evidence-based treatments.

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