

LEGAL UPDATE

Biden Administration Rescinds Proposed Changes to Contraceptive Coverage Mandate

On Dec. 23, 2024, the Departments of Health and Human Services, Labor and the Treasury (Departments) [rescinded](#) a proposed rule from February 2023 that would have expanded access to contraceptive coverage.

As background, the Affordable Care Act (ACA) requires non-grandfathered group health plans and health insurance issuers to provide benefits for certain women's preventive health services without imposing cost-sharing requirements. These preventive health services include contraceptive services and products approved, cleared or granted by the U.S. Food and Drug Administration that a woman's attending health care provider determines to be medically appropriate.

Churches and other houses of worship are not required to comply with the ACA's requirement to cover contraceptives. The Departments have also exempted certain employers from the ACA's requirement to cover contraceptives if they **object to this coverage based on sincerely held religious beliefs or moral convictions**. An optional accommodation process is available for employers who are eligible for an exemption.

Proposed Changes (Rescinded)

On Feb. 2, 2023, the Departments [proposed](#) changes to the ACA's contraceptive coverage mandate to help resolve long-running litigation regarding religious objections and ensure that women enrolled in health plans or coverage offered by objecting entities could independently obtain contraceptive services at no cost. Specifically, these proposed changes would have rescinded the exemption to covering contraceptives based on nonreligious moral objections but retained the religious exemption. The proposal would have also allowed individuals in plans or coverage subject to a religious exemption to obtain contraceptive services at no cost directly from a health care provider, without any involvement from the objecting entity.

The Departments received almost 45,000 comments in response to the proposed changes. In withdrawing the proposal, the Departments noted that they want to consider the proposed changes further in light of these comments. They also noted that they would like to focus on other matters at this time but may release new rules in the future to address these issues.

Notably, the Departments have recently [proposed](#) other changes to the ACA's contraceptive coverage mandate. These changes would require most plans and issuers to cover over-the-counter contraceptives without imposing cost sharing (e.g., deductibles, copayments or coinsurance) or requiring a prescription. They would also require coverage of a broader array of contraceptive drugs and drug-led combination products without cost sharing. The Departments have not withdrawn these proposed changes.



HIGHLIGHTS

- The Departments are withdrawing a proposed rule from February 2023 regarding the ACA's contraceptive coverage mandate.
- The proposed rule would have eliminated the current exemption based on nonreligious moral objections and created a new way for individuals to receive no-cost coverage.
- The Departments have recently proposed other changes to the ACA's contraceptive coverage mandate, which have not been withdrawn.