

LEGAL UPDATE

Proposed Rule Would Expand Access to Contraceptive Coverage

On Jan. 30, 2023, the Departments of Health and Human Services, Labor and the Treasury (Departments) released a [proposed rule](#) that would expand access to contraceptive coverage.

Current Rules

The Affordable Care Act (ACA) requires non-grandfathered health plans and health insurance issuers to cover certain contraceptive services without cost sharing. Current rules include an exemption and optional accommodations process for eligible employers with sincerely held religious or moral objections to contraceptive coverage.

When an employer qualifies for the exemption but does not use the optional accommodations process, employees and their dependents do not have access to first-dollar contraceptive coverage through the plan.

Proposed Changes

The proposed rule would **rescind the moral exemption** to covering contraceptives but retain the existing religious exemption. The proposed rule would also **establish a new way for individuals to access contraceptives at no cost** when they are enrolled in plans that qualify for an exemption and do not use the optional accommodations process.

Under the proposed rule, individuals would be able to obtain contraceptive services at no cost directly from a willing health care provider. The provider would be able to seek reimbursement for its costs by entering into an agreement with an issuer in an ACA health insurance Exchange, which in turn may seek a user fee adjustment.

At this time, the rules are only in the proposed form and have not been finalized. The Departments are accepting comments on the proposed rule until April 3, 2023.

Proposed Changes

The proposed rule would make the following changes to strengthen access to contraceptive coverage:

- Eliminate the exemption for employers who object to contraceptive coverage based on moral convictions (but retain the exemption based on religious beliefs); and
- Create a new way for individuals to receive no-cost contraceptive coverage directly through a health care provider.

The proposed rule would allow individuals to receive contraceptive coverage at no cost from a willing provider.

Provided to you by **Cowden Associates, Inc.**

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