

NEWS BRIEF

Provided by: Kinloch Consulting Group, Inc.

Biden Administration Announces Proposed Rule to Expand Access to Birth Control Coverage Under the ACA

On Jan. 30, 2023, the U.S. Departments of Health and Human Services (HHS), Labor and Treasury [announced](#) a proposed rule expanding access to birth control coverage under the Affordable Care Act (ACA). The proposed rule would eliminate the moral exemption, which was put in place in 2018, that permits employers to opt out of providing contraceptive services due to their moral convictions. It would also create an independent pathway for individuals enrolled in plans arranged or offered by objecting entities to make their own choice to access contraceptive services directly through a willing contraceptive provider without any costs. This would allow women and covered dependents to navigate their own care and obtain birth control if their plan or insurer has a religious objection. The proposed rule would allow the existing religious exemption for entities and individuals with objections as well as the optional accommodation for coverage.

The proposed rule would expand and strengthen access to coverage for women's preventive services, including birth control and contraceptive counseling, so that women enrolled in group health plans or individual health insurance coverage who need or want birth control would be able to obtain it with no out-of-pocket costs. If the rule is finalized, health plans subject to the ACA preventative services requirement would have access to contraceptive services, even if they were previously not covered due to a moral or religious objection. HHS expects the rule to affect more than 100 employers and 125,000 workers.

What's Next?

The U.S. Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization*, which ended the federal constitutional right to abortion care, has placed heightened importance on the issue of access to contraceptive services. As such, the proposed rule is the latest effort by the Biden-Harris administration to strengthen access to birth control at no cost. It is drafted to address concerns of employers with religious objections and the reproductive needs of their workers. It seeks to ensure broader access to contraceptive services by allowing enrollees to make their own choices to access contraceptive services at no cost in the event their plan or insurer has a religious exemption.

Once the proposed rule is published in the Federal Register, there will be 60 days for the public to comment. The agencies will then review the comments and determine whether to move forward with a final rule. Officials expect to receive thousands of comments and, as a result, it will likely be months before the rule is finalized. Potentially impacted employers will want to follow the rule-making process closely.

Employers should stay tuned for updates from Kinloch Consulting Group, Inc. but otherwise operate as usual. We will keep you apprised of any notable changes.

