

The Affordable Care Act (ACA) requires non-grandfathered health plans to cover certain preventive care services for women, including contraceptives, without imposing cost-sharing requirements for the services. Special rules have been created for religious employers' health plan coverage to provide women with access to contraceptive coverage without cost-sharing while also respecting these employers' objections to contraception.

Under these special rules, churches are exempt from covering contraception on the basis of their religious objections. Certain church-affiliated institutions (such as schools, charities, hospitals and universities) that object to contraceptive coverage are subject to an enforcement delay and accommodations approach.

On June 28, 2013, the Departments of Health and Human Services (HHS), Labor and the Treasury (Departments) issued a [final rule](#) on the contraceptive coverage exceptions that apply to religious employers.

EXEMPTION FOR CHURCHES

Group health plans of religious employers are exempt from ACA's contraceptive coverage requirement. The final rule simplifies the definition of a "religious employer" as it relates to contraceptive coverage, effective for plan years beginning on or after Jan. 1, 2013.

Specifically, the rule **eliminates the criteria** that a religious employer:

- > Have the inculcation of religious values as its purpose;
- > Primarily employ persons who share its religious tenets; and
- > Primarily serve persons who share its religious tenets.

The simplified definition of "religious employer" for purposes of the exemption is based solely on Section 6033(a)(3)(A)(i) or (iii) of the Internal Revenue Code, which primarily includes churches and other houses of worship.

The definition was simplified to clarify that a house of worship is not excluded from the exemption because, for example, it provides charitable social services to persons of different religious faiths or employs persons of different religious faiths. According to HHS, the simplified definition does not expand the universe of employer plans that qualify for the exemption beyond that which was intended in prior guidance.

ACCOMMODATIONS FOR NONPROFIT RELIGIOUS ORGANIZATIONS

The final rule provides accommodations for nonprofit religious organizations that object to contraceptive coverage on religious grounds and do not qualify for the

church exemption. The accommodations are effective for **plan years beginning on or after Jan. 1, 2014**. A temporary enforcement delay applies until then.

An eligible organization is one that:

- > Opposes providing coverage for some or all of any contraceptive services which are required to be covered on account of religious objections;
- > Is organized and operates as a nonprofit entity;
- > Holds itself out as a religious organization; and
- > Self-certifies that it meets these criteria (HHS has provided a [self-certification form](#) for this purpose).

Under the accommodations, eligible organizations do not have to contract, arrange, pay or refer for any contraceptive coverage to which they object on religious grounds. However, separate payments for contraceptive services will be provided to females in the health plan by an independent third party, such as an insurance company or third-party administrator (TPA), directly and free of charge.

For insured group health plans, the religious organization must provide the self-certification to the health insurance issuer. The issuer must then provide separate payments for contraceptive services for the women in the health plan of the organization, at no cost to the women or to the organization. According to HHS, issuers will find that providing these payments is cost-neutral.

For self-insured group health plans, the religious organization must provide the self-certification to its TPA. The TPA must then provide or arrange separate payments for contraceptive services for the women in the health plan of the organization, at no cost to the women or to the organization. The costs of these payments can be offset by adjustments in federally-facilitated Exchange user fees paid by a health insurance issuer with whom the TPA has an arrangement.

TEMPORARY ENFORCEMENT DELAY

In prior guidance, HHS provided a temporary safe harbor allowing nonprofit employers that do not provide contraceptive coverage to their employees because of their religious beliefs to delay covering contraceptive services. This delay covers church-affiliated organizations that do not qualify for the church exemption, such as schools, hospitals, charities and universities. Under the terms of the safe harbor, the Departments will not take any enforcement action against employers, group health plans or group health issuers that meet the eligibility criteria for the safe harbor and that fail to cover some or all of the recommended contraceptive services without cost sharing.



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Issued on Contraceptive Coverage
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The safe harbor was originally set to expire for the first plan year beginning on or after Aug. 1, 2013. However, to cover the period before the accommodations approach becomes effective, HHS **extended the safe harbor to encompass plan years beginning on or after Aug. 1, 2013, and before Jan. 1, 2014.**

MORE INFORMATION

For more information on ACA's preventive care requirements, contact your MJ Insurance, Inc. representative.

Source: Departments of Labor, Health and Human Services and the Treasury

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