

LEGAL UPDATE

Agencies Plan Changes to Contraceptive Coverage Rules

On Aug. 16, 2021, the Departments of Health and Human Services (HHS), Labor (DOL) and the Treasury (Departments) issued a [frequently asked question \(FAQ\)](#) regarding enforcement of the contraceptive coverage mandate under the Affordable Care Act (ACA).

This FAQ indicates that the Departments intend to amend existing religious and moral exemptions to the contraceptive coverage mandate in light of recent litigation.

Contraceptive Mandate

The ACA requires non-grandfathered health plans to cover certain women's preventive health services without cost sharing, including all FDA-approved contraceptives.

Religious exemptions apply to certain churches, houses of worship, and other church-affiliated institutions, allowing them to choose not to contract, arrange, pay or refer for any contraceptive coverage.

On Nov. 15, 2018, the Departments published final regulations that expanded the exemptions and accommodations to the contraceptive mandate to apply to any entities with religious or moral objections to the contraceptive coverage requirement.

On July 8, 2020, the U.S. Supreme Court [upheld](#) these regulations as a valid exercise of power under the Trump administration.

FAQ Guidance

The FAQ indicates that the Departments intend to issue regulations within six months to amend the 2018 final regulations. The FAQ does not provide any additional detail or specify the types of changes that may be made.

Important Dates

Nov. 15, 2018

Two final regulations expanded the exemptions to the contraceptive mandate.

July 8, 2020

The U.S. Supreme Court upheld the expanded exemptions in the final regulations.

Aug. 16, 2021

The Departments issued an FAQ indicating that they intend to amend the final regulations.

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