GBS HEALTH BENEFITS COMPLIANCE

Federal Agencies Withdraw More Proposed Changes to ACA's Contraceptive Coverage Mandate

On Jan. 14, 2025, the Departments of Health and Human Services, Labor and the Treasury (Departments) rescinded a proposed rule from October 2024 that would have expanded the Affordable Care Act's (ACA) coverage mandate for contraceptives. Most notably, the proposed rule would have required most health plans and health insurance issuers to cover over-the-counter (OTC) contraceptives without imposing cost sharing (e.g., deductibles, copayments or coinsurance) or requiring a prescription.

The Departments rescinded another proposed rule on the ACA's contraceptive coverage mandate in December 2024. That proposed rule would have eliminated an exemption to the coverage mandate based on an employer's nonreligious moral objections to the coverage.

In both instances, the Departments noted that they are withdrawing the proposed changes to **focus on other matters at this time**, such as a new transparency requirement for advanced explanation of benefits. However, new rules may be released in the future to address these issues.

Contraceptive Coverage Mandate

The ACA requires non-grandfathered health plans and 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 (FDA) that a woman's attending health care provider determines to be medically appropriate.

Currently, health plans and issuers are only required to cover OTC preventive products without cost sharing when they are prescribed by a health care provider. In July 2023, the FDA approved the first OTC daily oral contraceptive, which is now widely available across the country.

Proposed Changes (Rescinded)

The proposed rule, which has been rescinded, would have required health plans and issuers to:

- Cover recommended OTC contraceptive items without requiring a prescription and without imposing cost sharing;
- Cover every FDA-approved contraceptive drug or drug-led combination product without cost sharing, unless the plan also covers a therapeutic equivalent of the drug or drug-led combination product without cost sharing; and
- Disclose to plan participants that OTC contraception is covered without a prescription and without cost sharing.

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This document is not intended to be exhaustive, nor should any information be construed as tax or legal advice.