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Contraceptive Coverage Mandate - Religious Objection Update

Under healthcare reform's preventive services rules, a non-grandfathered, non-excepted group health plan must cover contraceptive drugs, devices, and related counseling at no charge to an employee when services are delivered by in-network providers. There have been many religious court case challenges to this contraceptive coverage mandate with varying results. The US Supreme Court has agreed to review two such cases during the 2014 term to decide whether for-profit companies can be forced to insure birth control. Also, just hours before the 2014 mandate was to take effect for religious non-profit groups, US Supreme Court Justice Sonia Sotomayor issued an emergency stay temporarily blocking the regulation's enforcement against certain non-profit religious organizations.

Complete Exemption for Religious Employers. Religious employers (i.e., churches and houses of worship) are exempt from this contraceptive coverage mandate.

Accommodation for Other Non-Profit Religious Organizations. Other non-exempt, non-profit religious organizations - such as hospitals and schools - that have religious objections to contraceptive coverage are provided an "accommodation" if they self-certify that they meet certain criteria. For plan years beginning on or after January 1, 2014, these non-exempt, non-profit religious organizations that object to contraceptive coverage on religious grounds do not have to contract, arrange, pay for, or refer contraceptive coverage, but such coverage must be separately provided to women enrolled in their health plans at no cost. See our [July 2013 Update](#) for more information.

Controversy over this contraceptive coverage mandate "accommodation" has continued based on religious liberty concerns. The federal government has argued that it has sufficiently provided for the religious freedom of these religious organizations through the "accommodation" under which the faith-based employers can pass the burden of providing the objectionable coverage to insurers, who must then offer it directly to employees without cost. Critics, however, argued that the costs of the coverage will ultimately be handed on to the employer in some way. In response to one such challenge, an emergency stay issued just before the 2014 year temporarily blocks the regulation's enforcement of the contraceptive mandate rules against more than 200 religious groups insured by the Christian Brothers Employee Benefit Trust. Justice Sotomayor's decision joined more than a dozen other preliminary court orders to block the mandate. The majority of nonprofit groups that have sued over the mandate have received temporary relief. Also on December 31, 2013, the US Court of Appeals for the District of Columbia granted last-minute

injunctive relief to several Catholic colleges and organizations, including the Archdiocese of Washington, D.C., and The Catholic University of America. Without this relief, the groups would have been forced to comply with the contraceptive mandate in 2014 or face large fines.

No Exemption or Accommodation for Other Employers with Religious Objections. There is currently no exemption or safe harbor from the contraceptive coverage mandate rules for nonprofit, secular employers and for-profit employers with religious objections. During its 2014 term, the US Supreme Court will consider a legal challenge brought by the secular, family-owned Hobby Lobby Stores Inc., which argues the requirement violates the owners' religious liberties. Hobby Lobby's owners say they try to run their business on Christian principles.

The Supreme Court oral arguments will likely be scheduled for the spring of 2014 with a ruling by early summer. Should you have questions about this or any aspect of healthcare reform, contact your Conner Strong & Buckelew account representative toll free at 1-877-861-3220. For a complete list of Legislative Updates issued by Conner Strong & Buckelew, visit our online [Resource Center](#).



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