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Contraceptive Coverage Requirements – Final Regulations

WHAT ARE THE FINAL REGULATIONS REGARDING RELIGIOUS ORGANIZATIONS PROVIDING CONTRACEPTIVE COVERAGE?

Group health plans of certain “religious employers” that object to contraceptive coverage on religious grounds may be exempt from providing contraceptive coverage. The exempt organization does not have to contract, arrange, pay, or refer for contraceptive coverage. However, insurers and third-party administrators of self-funded group health plans must provide contraceptive services to women enrolled in the group health plan at no cost to the member or the organization. This regulation includes non-profit religious organizations that are not religious employers, but that object to contraceptive coverage on religious grounds. The non-profit religious organization must provide the insurer or third party administrator with a copy of its self-certification form.

DOES THE REGULATION CHANGE THE DEFINITION OF A “RELIGIOUS EMPLOYER”?

The new regulation eliminates the requirements that a religious employer:

- have the inculcation of religious values as its purpose;
- primarily employ persons who share its religious tenets;
- primarily serve persons who share its religious tenets.

This change clarifies that a house of worship is not excluded from the exemption because it provides charitable social services to, or employs, persons of different religious faiths. The clarification does not extend the universe of employers that would qualify for the exemption beyond that which was intended under the 2012 final rules.

Affordable Care Act Implementation Alert

The Affordable Care Act and your self-funded health plan

ARE ALL NON-PROFIT RELIGIOUS ORGANIZATIONS ELIGIBLE FOR AN EXEMPTION?

The final regulations provide accommodations for non-profit religious organizations – such as religious-affiliated hospitals and schools – if they meet the following criteria:

- on account of religious objections, oppose providing coverage for some or all contraceptive services otherwise required to be covered;
- are organized and operate as a non-profit entity;
- hold themselves out as a religious organization;
- provide self-certification that they meet the criteria in accordance with the provisions of the final regulations.

WHAT DOES A RELIGIOUS ORGANIZATION NEED TO DO TO CONFIRM ITS STATUS?

The non-profit religious organization must use a new [form to "self-certify"](#) that they are eligible for exemption from providing coverage for contraceptive services.

WILL THE SAFE HARBOR FOR ENFORCEMENT BE EXTENDED?

Yes. The Safe Harbor was originally set to expire for the first plan year beginning on or after August 1, 2013. However, to cover the period before the accommodations become effective, it was extended to encompass plan years beginning on or after August 1, 2013, and before January 1, 2014.

WHAT IS THE ROLE OF INDEPENDENCE ADMINISTRATORS?

Once we receive self-certification from a client, we can then provide notification and arrange separate payments for contraceptive services for the women enrolled in the client's group health plan, at no cost to the women or the client.

Independence Administrators does not provide legal or tax advice. The final determination of whether the Plan Sponsor meets the requirements of the Affordable Care Act must be made by the Plan Sponsor in consultation with the employer's own legal counsel or tax advisor.

