

Obama Administration Revises The Contraceptive Mandate, But Provides No Accommodations For For-Profit Companies With Religious Objections

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On February 1, 2013, the Obama administration issued new proposed rules which would amend the contraceptive mandate under the Patient Protection and Affordable Care Act. The proposed rules, which can be [found here](#), provide no relief to for-profit companies with religious objections to the contraceptive mandate. Instead, the new proposed rules provide some additional accommodations for religious employers. For example, under the new proposed rules, an entity may qualify for the religious employer exemption even if it serves or hires people of different religious faiths. The proposed rule also contains provisions by which non-profit religious organizations such as hospitals and universities would not have to directly pay for contraceptive services, but could instead have their insurer provide such services at no cost to either the employee or the religious employer.

Currently, there are more than 40 pending legal challenges to the contraceptive mandate. The administration had indicated for some time that it planned to issue new proposed rules to accommodate religious employers, and was ordered by the D.C. Circuit Court of Appeals provide an update on this plan by mid-February 2013. While it is too early to tell whether these new proposed rules will have any significant effect on the pending lawsuits brought by non-profit religious employers, it is clear that it will have no impact on the lawsuits brought by for-profit employers. Those cases continue to make their way through the various courts of appeal. Recently, both the Seventh Circuit and the Eighth Circuit enjoined the application of the contraceptive mandate to certain for-profit business. See [Grote v. Sebelius](#), Case No. 13-1077 (7th Cir. Jan. 30, 2013), and [Annex Medical, Inc. v. Sebelius](#), Case No. 13-1118 (8th Cir. February 1, 2013)

Given the splits developing in the [federal courts across the country](#) this issue remains on a collision course with the Supreme Court.

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