



Health Care Reform Update



IMPORTANT NOTICE REGARDING HEALTHCARE REFORM Update #111

July 2020

U.S. Supreme Court Upholds Expansion of Contraceptive Coverage Exemptions

The U.S. Supreme Court has upheld expanded exemptions to the Affordable Care Act (ACA) contraceptive coverage mandate. As background, qualifying religious employers are exempt from the mandate, and certain other employers with religious objections to contraceptives may engage in an accommodation process relieving them of their coverage obligation. Regulations expanding the exemption to include additional individuals and entities based on sincerely held religious beliefs or sincerely held moral objections were blocked by a nationwide injunction issued by a trial court and upheld by the Third Circuit Court of Appeals. The U.S. Supreme Court has reversed the Third Circuit's decision and sent the cases back with instructions to dissolve the injunction.

Rejecting arguments that the regulations were substantively and procedurally invalid, the U.S. Supreme Court has held that the agencies had the authority to provide exemptions from the regulatory contraceptive requirements for employers with religious and conscientious objections. According to the decision, a plain reading of the ACA gives the agencies broad discretion to define preventive care and screenings, and to create and expand religious and moral exemptions. Pointing out that "no language in the statute itself even hints that Congress intended that contraception should or must be covered," the U.S. Supreme Court concluded that Congress had declined to expressly require contraceptive coverage in the ACA and had issued an extraordinarily broad directive to the agencies to craft rules, without any qualifications as to substance.

Based on this decision, more employers are potentially eligible for an exemption from the contraceptive coverage mandate. However, these issues have been litigated for many years, and the next move remains to be seen as the cases return to the lower courts for further proceedings.

Little Sisters of the Poor Saints Peter and Paul Home v. Pennsylvania; Trump v. Pennsylvania, 2020 WL 3808424 (U.S. 2020) Available at https://www.supremecourt.gov/opinions/19pdf/19-431_5i36.pdf

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