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Trump Administration Broadens Employer Exemption from ACA's Contraceptive Coverage Requirements

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On October 6, the Trump Administration issued two new interim final rules that significantly expand exemptions for employers to the ACA's requirements to provide free contraceptive coverage. The new regulations, effective immediately, allow exemptions for 1) any employer or university with a health plan with objections to contraception based on religious beliefs, and 2) any non-profit or closely-held for-profit employer with moral objections. These regulations represent a significant departure from the previous standard, under which exemptions were limited to closely-held employers' religious beliefs only (in addition to churches and some religious organizations that have always been exempt). Under the new interim final rules, many more employers may elect to withhold no-cost contraceptive coverage from their health plans.

Background and Analysis: The ACA requires that employers include certain preventive services, such as contraceptive coverage, without cost sharing in their health plans for employees. According to the Kaiser Family Foundation, the share of women age 15-44 who paid out-of-pocket on oral contraceptives fell from 20.9 percent in 2012 to 3.6 percent in 2014 after the ACA's contraceptive coverage provisions took effect.

The contraceptive coverage requirements have been highly controversial. While churches were always exempt, the Supreme Court expanded exemptions in *Burwell v. Hobby Lobby Stores, Inc.* (2014) to include closely-held companies whose owners have a religious objection to contraception. Even as interpreted by the courts, religious-affiliated employers have continued to argue that the contraceptive coverage requirements are an encroachment on their religious liberty.

The new Trump Administration regulations significantly expand the exemptions available to non-profit and for-profit employers, as well as universities, with religious or moral objections to contraceptive coverage. It remains unclear how many employers will continue to maintain no-cost contraceptive coverage and how many will now opt for the exemption.