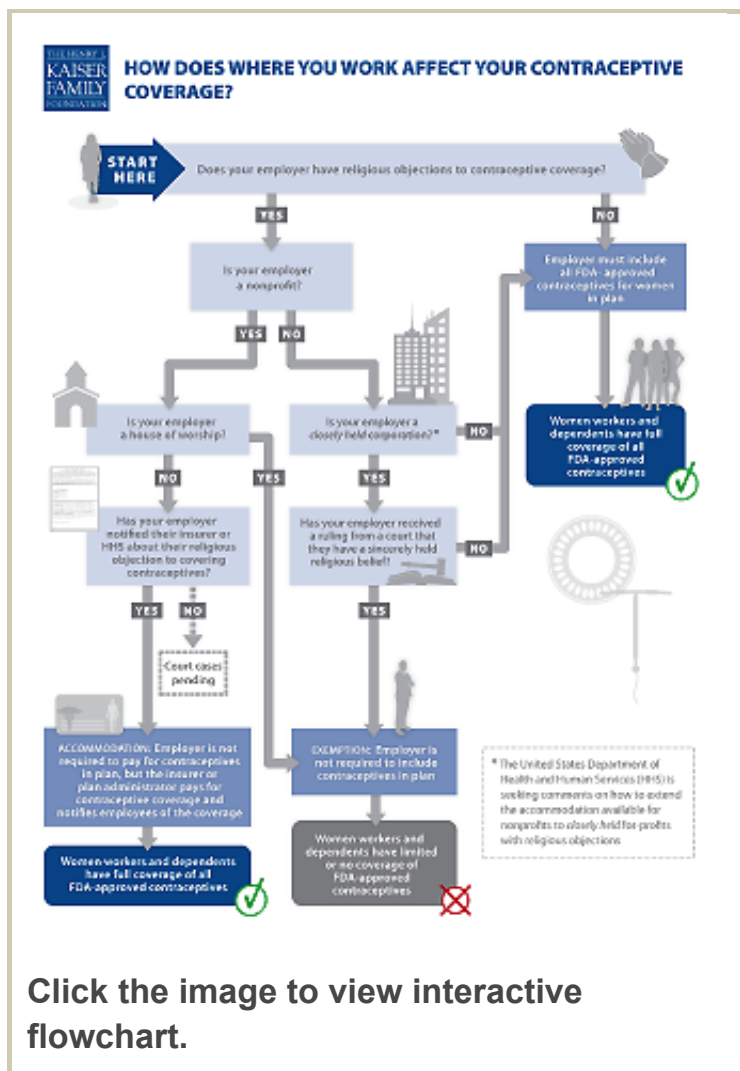


How Does Where You Work Affect Your Contraceptive Coverage?

Sep 08, 2014

The Affordable Care Act (ACA) requires most private health insurance plans to provide coverage for a broad range of preventive services including Food and Drug Administration



<http://www.fda.gov/forconsumers/byaudience/forwomen/womenshealthtopics/ucm117971.htm> (FDA) approved prescription contraceptives and services for women. Since the implementation of this provision in 2012, some nonprofit and for profit employers with religious objections to contraceptives have brought legal challenges to this rule. For many women today, their contraceptive coverage depends on their employer or when they purchased their individual insurance plan.

Who has a plan that includes contraceptive coverage?

Women who have a non-grandfathered health insurance plan through an employer (either their own, their spouse's or their parent's) that does not have a religious objection to providing coverage for contraceptives are insured for the full range of prescribed FDA approved contraceptives without cost-sharing. Women who purchase an individual insurance policy that started August 1, 2012 or later also have full contraceptive coverage.

Women who work for religiously-affiliated nonprofits such as universities or healthsystems that have a religious objection to contraception typically have coverage for contraceptive services, although the employer will not have to pay for this coverage. Eligible nonprofits that object can file for an accommodation (<https://www.federalregister.gov/articles/2014/08/27/2014-20252/coverage-of-certain-preventive-services-under-the-affordable-care-act>) to the rule by either completing the EBSA 700 self-certification form (<http://sblog.s3.amazonaws.com/wp-content/uploads/2014/01/EBSA-Form-700.pdf>) or notifying HHS (<http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Model-Notice-8-22-14.pdf>) in writing about their objection (also providing the plan name, type and contact information for the health plan or the third party administrator). The accommodation releases these nonprofit employers from the requirement of paying for contraceptive coverage, and assures that the employees and their dependents are still able to obtain full coverage for contraceptives directly from the insurer as they are entitled to by federal law.

A series of lawsuits, however, have been filed by certain non-profit religiously affiliated employers, claiming that the federal accommodation and the notification to insurers violates their religious beliefs by making them "complicit" in the provision of contraceptive coverage to their workers. These cases are pending (<http://www.becketfund.org/hhsinformationcentral/#BackToTop2>) in the lower federal courts. On August 22, 2014, HHS issued interim final regulations modifying the notice requirements for eligible nonprofit organizations seeking to use the accommodation. It is unclear, however, whether the legal challenges will continue under the new regulations.

Who may not have contraceptive coverage in their plan?

Women who work for a house of worship that objects to contraceptive coverage do not have guaranteed coverage for the full range of FDA approved contraceptives. Houses of worship are exempt from the contraceptive coverage requirement.

In a major case involving for profit employers, *Hobby Lobby v. Burwell* (<http://kff.org/womens-health-policy/issue-brief/a-guide-to-the-supreme-courts-review-of-the-contraceptive-coverage-requirement/>), the Supreme Court ruled that *closely held* corporations may exclude contraceptives from their health plans if their owners have sincerely held religious objections as determined by a court. As a result, women who work for these employers do not have coverage for some or all FDA approved contraceptives depending on the business owner's beliefs. On August 22, 2014, HHS issued proposed rules (<https://www.federalregister.gov/articles/2014/08/27/2014-20254/coverage-of-certain-preventive-services-under-the-affordable-care-act>) regarding *closely held* corporations with religious objections to contraceptive coverage. HHS is seeking comments on how to extend the same accommodation provided to eligible nonprofits to *closely held* corporations with religious objections to contraceptives. There is a 60 day comment period. These regulations would have the effect of restoring contraceptive coverage to workers employed by *closely held* corporations with religious objections.

Women enrolled in student health plans may not have contraceptive coverage without cost-sharing because the rules for student health plans depend on whether the college has a self-insured plan or a fully insured plan. Colleges or universities that purchase insurance from a health insurance company are required to provide contraceptive coverage for women. Religious institutions of higher education with objections to providing contraceptive services are eligible for an accommodation (<https://www.federalregister.gov/articles/2014/08/27/2014-20252/coverage-of-certain-preventive-services-under-the-affordable-care-act>) and do not have to pay for coverage, but faculty, staff and students will still have no-cost contraceptive coverage provided by the health insurance company. Student health plans that are self-insured, however, may not be required to cover contraceptive services without cost-sharing because it's up to states to set that policy, and not federal law, in the cases of self-insured student plans.

Women enrolled in grandfathered plans (<http://kff.org/health-reform/faq/health-reform-frequently-asked-questions/#question-what-is-a-grandfathered-plan-how-do-i-know-if-i-have-one>) may not have contraceptive coverage. Grandfathered health plans are plans that were in existence on March 23, 2010 and have stayed basically the same. These plans are not required to provide all of the benefits, including preventive health services, required of other health plans.

Washington Offices and Barbara Jordan Conference Center: 1330 G Street, NW, Washington, DC 20005 | Phone 202-347-5270

www.kff.org | Email Alerts: kff.org/email | facebook.com/KaiserFamilyFoundation | twitter.com/KaiserFamFound

Filling the need for trusted information on national health issues, the Kaiser Family Foundation is a nonprofit organization based in Menlo Park, California.