

District Court Judge Stops HHS Regulations Regarding Contraception Mandate

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By: Anthony E. Antognoli

When Congressional drafters wrote the Affordable Care Act 10 years ago, they included a provision requiring group health plans to provide preventive care without cost sharing. Much of that coverage requirement was set forth in the Act itself with some specificity. It included immunizations, screenings, and other “evidence-based items or services” recommended by the United States Preventive Services Task Force. The Act also provided for special rules for preventive care “with respect to women;” however, those rules were not specified in the Act and were to be determined by a government agency. After the law safely passed, the Health Resources and Services Administration, acting on the findings of the Institute of Medicine, decided that preventive care with respect to women must include coverage for contraceptive services without cost sharing. In the decade since that provision became law, plan sponsors have been dealing with nearly constant administrative and judicial pinball regarding this contentious topic.

The most recent pronouncement comes from the U.S. District Court for the Eastern District of Pennsylvania, where Judge Wendy Beetlestone [ruled on Monday](#) that final regulations issued last year by the U.S. Department of Health and Human Services (“HHS”) are invalid. Those regulations allowed a special exemption to the contraception services requirement for plan sponsors that held a religious or moral objection to those services. A number of State Attorneys General sued to block those regulations from becoming effective. The court found that the States would be harmed if the regulations were enforced, with “numerous citizens losing contraceptive coverage, resulting in ‘significant, direct and proprietary harm’ to the states in the form of increased use of state-funded contraceptive services, as well as increased costs associated with unintended pregnancies.” As a result, the court has issued a nationwide injunction preventing the final rules from taking effect. The court’s ruling expanded on a similar decision from the U.S. District Court for the Northern District of California, which earlier this week issued a more limited injunction with respect to select states that had sued HHS.

Plan sponsors should expect these decisions to be appealed, likely all the way to the Supreme Court. Plan sponsors also need to contend with a ruling from the U.S. District Court for the Northern District of Texas from a

few weeks ago, which found the entire Affordable Care Act—including, of course, the contraception mandate—to be unconstitutional. A full decade after the Affordable Care Act became law, there remains much uncertainty as to how that law will be enforced.

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Topics

Affordable Care Act, HHS, U.S. Department Of Health And Human Services, ObamaCare, ACA, Contraceptive, Preventative Care, Contraception Services