

New Supreme Court Ruling Allows Religious Employers to Exempt Birth Control from Health Care Coverage

By C. Logan Hinkle

July 9, 2020

Earlier yesterday, the Supreme Court ruled that employers may exclude coverage for birth control from their health plans based upon moral or religious objections to contraception.

The case, Little Sisters of the Poor Saints Peter and Paul Home v. Pennsylvania, marks the close of the latest chapter in a fight that began nearly a decade ago. In 2011, the Obama administration took the position that the Affordable Care Act's mandate to provide first-dollar coverage for preventive meant that virtually all health plans were required to cover birth control with no cost-sharing. The Obama administration's interpretation included a narrow exemption for churches (although many religious groups objected to the requirements of the exemption). In 2014, this exemption was extended to closely-held for profit employers in the Hobby Lobby decision.

In 2017, the Trump administration, supported by a number of religious groups, rolled back the Obama administration's birth control coverage rules. This move was quickly blocked by a Federal judge in case brought by the New Jersey and Pennsylvania attorneys general, which eventually led to yesterday's Supreme Court ruling.

In a 7-2 decision, the Supreme Court overturned the lower court's decision and upheld the Trump administration's rules allowing employers to exclude coverage for contraceptives on religious or moral grounds. Left-leaning Justices Kagan and Breyer joined with the more conservative Justices Alito, Gorsuch, Kavanaugh, Roberts and Thomas in ruling that the Trump administration did not overstep its authority in crafting the "religious and moral" exception to the ACA's mandate regarding preventive care.

The immediate impact of the ruling is unclear and unlikely to be felt for some time. Certainly, it does not require any sort of change to an existing policy. Most employer-sponsored health plans cover contraceptives and are unlikely to change policy based on this decision. However, there may be certain employers that might find this exception useful and helpful.

Of course, there also exists the possibility that these rules might change again if there is a new administration in 2021.

To discuss this further, please contact:

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