



Compliance Check

Notably, the Departments made it clear in the guidance that they are committed to ensuring consumers have access to contraceptive benefits, without cost sharing, and that they would take enforcement action as warranted. The Departments also reminded plans that any violations of the coverage requirements may result in a tax penalty under IRC Section 4980D or a civil monetary penalty under PHS Act Section 2723.

In light of the Biden Administration's push to facilitate access to contraceptive coverage following Dobbs as seen in his recent Executive Order, we expect to see the Departments increase their enforcement efforts in this regard. This seems even more likely based on the last FAQ of the guidance, which provides multiple ways for individuals to report any issues in accessing contraceptive coverage. Consequently, covered employer-sponsored health plans should take all steps necessary to ensure they are complying with the ACA's contraceptive coverage requirements.

This Legal Update is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice.