



This document is scheduled to be published in the Federal Register on 12/30/2024 and available online at <https://federalregister.gov/d/2024-31239>, and on <https://govinfo.gov> 1-P; 4120-01-P]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 54

[REG-124930-21]

RIN 1545-BQ35

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2590

RIN 1210-AC13

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Parts 147 and 156

[CMS-9903-WN]

RIN 0938-AU94

Coverage of Certain Preventive Services Under the Affordable Care Act

AGENCY: Internal Revenue Service, Department of the Treasury; Employee Benefits Security Administration, Department of Labor; Centers for Medicare & Medicaid Services, Department of Health and Human Services.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This document withdraws a notice of proposed rulemaking that appeared in the **Federal Register** on February 2, 2023, regarding coverage of certain preventive services under the Affordable Care Act.

DATES: As of December 23, 2024, the notice of proposed rulemaking that appeared in the **Federal Register** on February 2, 2023, at 88 FR 7236, is withdrawn.

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SUPPLEMENTARY INFORMATION: Section 2713 of the Public Health Service Act (PHS Act), as added by the Affordable Care Act and incorporated into the Employee Retirement Income Security Act and the Internal Revenue Code, requires non-grandfathered group health plans and health insurance issuers offering non-grandfathered group or individual health insurance coverage to provide coverage of certain recommended preventive services without imposing any cost-sharing requirements. These preventive services include, with respect to women, under comprehensive guidelines supported by the Health Resources and Services Administration, certain contraceptive services. Current regulations include exemptions and optional accommodations for entities and individuals with religious objections or non-religious moral objections to coverage of contraceptive services.

On February 2, 2023, the Departments of the Treasury, Labor, and Health and Human Services (HHS) (collectively, the Departments) proposed rules (88 FR 7236) that sought to resolve long-running litigation with regard to religious objections to providing contraceptive coverage, by respecting the objecting entities' religious objections while also ensuring that women enrolled in plans or coverage sponsored, arranged, or offered by objecting entities could independently obtain contraceptive services at no cost. The proposed rules would have rescinded the regulation providing for an exemption based on non-religious moral objections. The proposed rules would also have established a new individual contraceptive arrangement that individuals in plans or coverage subject to a religious exemption could use to obtain contraceptive services at no cost directly from a provider or facility that furnishes contraceptive services, without any involvement on the part of an objecting entity.

The Departments requested comments on all aspects of the proposed rules, as well as on a number of specific issues. The Departments received 44,825 comments in response to the

proposed rules from a range of interested parties, including employers, health insurance issuers, State Exchanges, State regulators, unions, and individuals. The Departments received comments on specific proposals in the proposed rules, as well as general comments on the proposals. The Departments also received comments that were not related to the proposals in the proposed rules.

The Departments have determined it appropriate to withdraw the proposed rules at this time to focus their time and resources on matters other than finalizing these rules. Additionally, in light of the volume and breadth of scope of the comments received, the Departments want to further consider the proposals made in the proposed rules. Moreover, should the Departments decide in the future that it is a priority to move forward with a rulemaking in this area, the Departments want to ensure that they will have the benefit of the most up-to-date facts and information on these important issues as the Departments consider how to best implement the contraceptive coverage requirements of PHS Act section 2713, while respecting religious objections to contraception. For these independently sufficient reasons, the Departments are withdrawing the proposed rules, and may propose new rules in the future, as appropriate to meet these goals.

This withdrawal does not limit the Departments' ability to make new regulatory proposals in the areas addressed by the withdrawn proposed rules, including new proposals that may be substantially identical or similar to those described therein. In addition, this withdrawal does not affect the Departments' ongoing application of existing statutory and regulatory requirements or its responsibility to faithfully administer the statutory requirements the proposed rules would have implemented if finalized.

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[FR Doc. 2024-31239 Filed: 12/23/2024 4:15 pm; Publication Date: 12/30/2024]