

Overview of Contraceptive Coverage under the ACA and Legal Challenges to the Requirement

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**The Supreme Court and Contraceptive Coverage:
Legal and Policy Implications**

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Affordable Care Act: Broadened Coverage and Benefits Including:


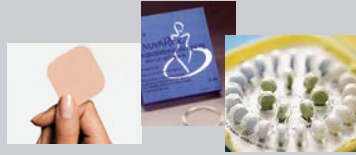


- Expanding dependent coverage to age 26
- Banning pre-existing conditions
- Prohibiting gender rating
- Elimination of lifetime limits on spending
- Defining “Essential Health Benefits” for individual policies
- Requiring plans to cover preventive care

ACA Preventive Services for Private Plans

New plans must cover without cost-sharing:

- **U.S. Preventive Services Task Force (USPSTF)** recommendations rated A or B
- **Advisory Committee on Immunization Practices** recommended immunizations
- ***Bright Futures*** guidelines for children
- ***“With respect to women,”* evidence-informed preventive care and screenings not otherwise addressed by USPSTF recommendations**
 - Services recommended by Institute of Medicine committee and adopted by HHS
 - Well-woman visits
 - Gestational diabetes, HIV, and STI screening and counseling
 - HPV testing
 - Breastfeeding support, supplies, and counseling
 - Interpersonal and domestic screening and counseling
 - FDA-approved contraceptive services and supplies as prescribed

FDA Approved Contraceptives

Contraceptive		Costs	Duration of Contraceptives
Barrier Methods 	Diaphragm	\$15-\$75	2 years
	Sponge	\$9-15	3 time uses
	Cervical Cap	\$60-\$75	2 years
	Spermicide	\$8	Per package
	Female Condom	\$4	Single use
Hormonal Methods 	Oral Contraceptives (Pills)	\$15-\$50	Per month
	Birth Control Patch (Ortho Evra)	\$15-\$80	Per month
	Birth Control Ring (NuvaRing)	\$15-\$80	Per month
	Birth Control Shot (Depo-Provera)	\$35-\$100	Per injection (3 months each)
Emergency Contraception 	Plan B – One Step, Next Choice, Levonorgestrel	\$35-\$60	Single use
	ella	\$55	Single use
Implanted Devices 	Intrauterine device – ParaGard , Mirena (hormonal IUD)	\$500-\$1000	5 – 10 years
	Implantable Rods	\$400-\$800	3 years
Sterilization	Surgery	\$1500 - \$6000	Permanent

NOTE: A woman's reproductive life spans approximately 30 years.

SOURCE: Planned Parenthood, Birth Control.

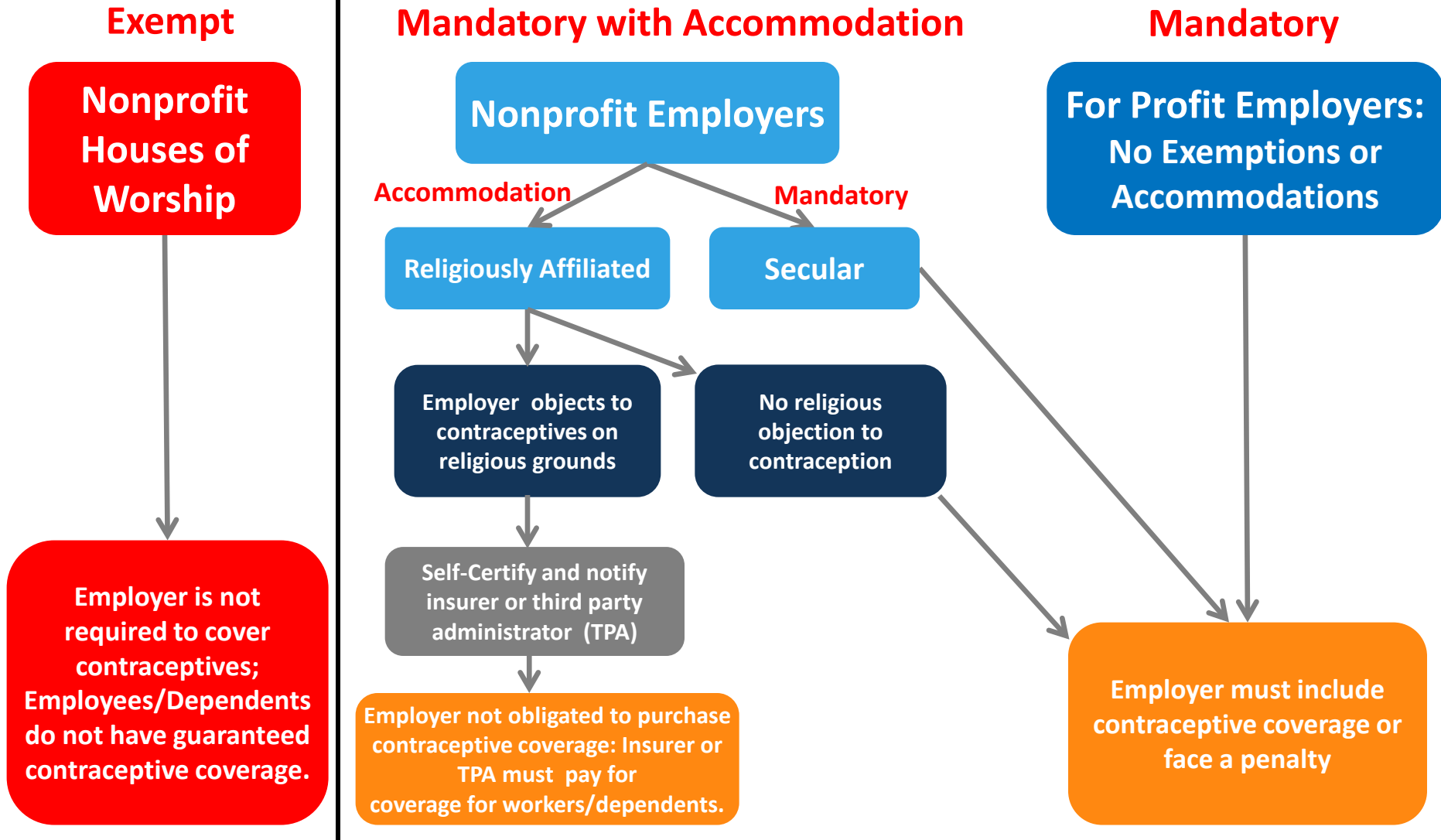
Contraceptive Coverage: What does it include?

- ACA requires coverage of FDA-approved contraceptive methods “as prescribed” for women with no cost sharing
- Includes counseling, insertion, and removal
- Services related to follow-up and management of side effects, counseling for continued adherence, and device removal

Which Plans Will Have to Cover Preventive Services Without Cost Sharing?

- All new private plans
 - Individual policies
 - Employer plans (including self-insured plans)
- Exception: plans that maintain “grandfathered” status
- Fine on employer for non-compliance is \$100 per day for each person enrolled.

Contraceptive Coverage: Exemptions and Accommodations



NOTE: This requirement applies to employers with fifty or more employees unless they are offering coverage through a grandfathered plan. Small employers (less than fifty employees) are not penalized for not offering health insurance to their workers. However, if a small employer does provide health insurance it must cover preventive services, including contraceptives for women.

More than 90 lawsuits have been filed claiming the requirement violates employer's religious rights

- 47 For-Profit Businesses and Corporations
- 46 Religiously Affiliated Nonprofit Corporations
- Some employers object to including all contraceptive coverage in their plan and some focus on emergency contraceptives (Plan B, Ella) and IUDs

Do for-profit corporations have religious rights?

Supreme Court Will Hear Oral Arguments 3/25/14

Case	Plaintiff	Claim
<p>Sebelius v. Hobby Lobby, Inc.</p> 	<p>Green family, Protestants of Oklahoma, own Hobby Lobby, a national chain of craft stores with over 500 stores in over 41 states and over 13,000 employees</p>	<p>Greens object to providing health insurance coverage for Ella, Plan B, and IUDs because it is against their religious beliefs and the requirement violates the Religious Freedom Restoration Act (RFRA) and the First Amendment</p>
<p>Conestoga Wood Specialties Corp. v. Sebelius</p> 	<p>Hahn family, Mennonites of Pennsylvania, own Conestoga Woods Specialties which manufactures wood cabinets and has 950 full time employees.</p>	<p>Hahns object to providing health insurance coverage for Plan B and Ella because it is against their religious beliefs and the requirement violates RFRA and the First Amendment</p>

Plaintiffs Face High Penalties If They Do Not Comply

Penalty for Providing Health Insurance that Excludes Contraceptives	Penalty for Not Providing Health Insurance
\$100 per day per enrollee	\$2,000 per employee per year
Hobby Lobby (covers over 13,000 people) Estimated fine: almost \$475 million per year	Hobby Lobby (13,000 employees) Estimated fine: \$26 million per year
Conestoga Wood Specialties (covers over 950 people) Estimated fine : \$34.6 million per year	Conestoga Wood Specialties (950 employees) Estimated fine: \$1.9 million per year

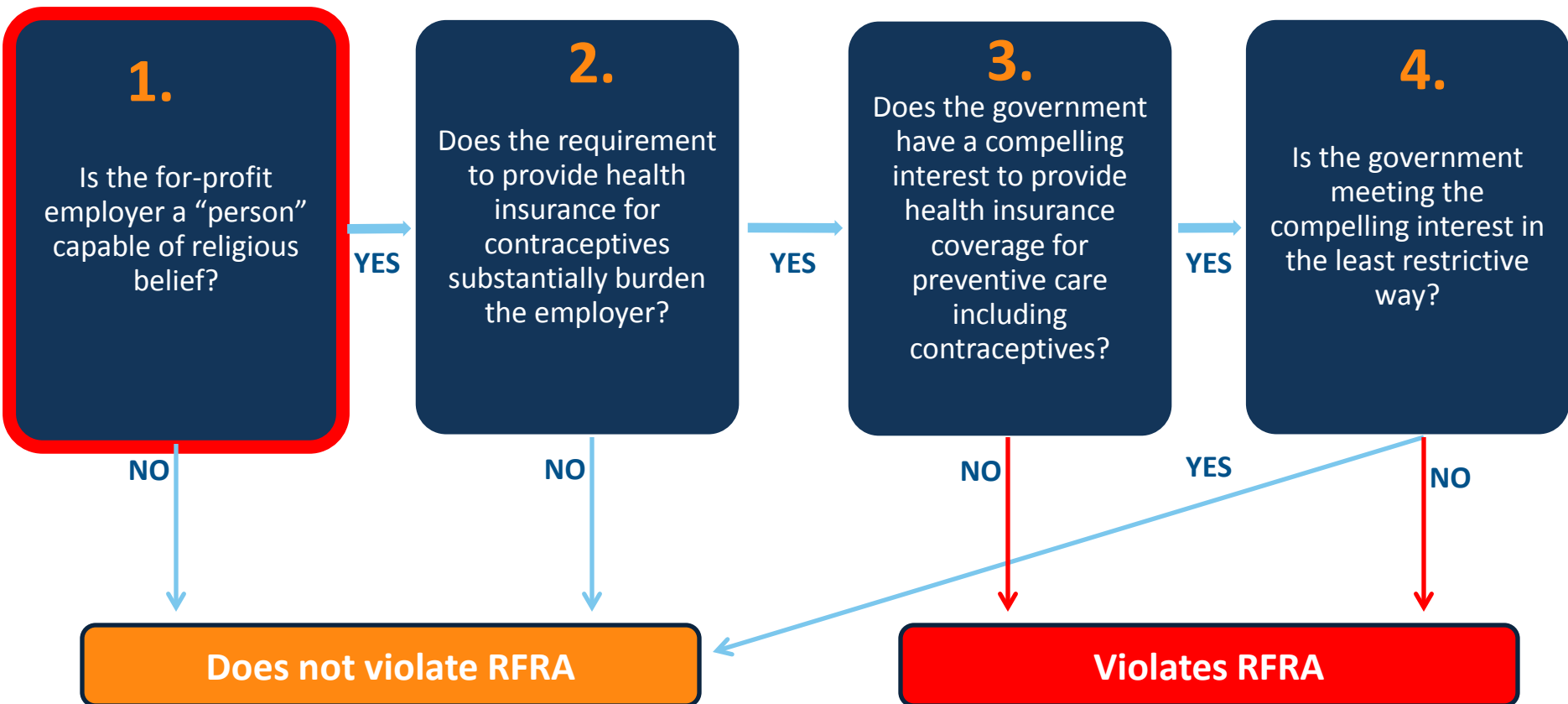
Religious Freedom Restoration Act of 1993

The Religious Freedom Restoration Act of 1993 (RFRA) provides that the government “**shall not substantially burden a person’s exercise of religion**” unless that burden is the **least restrictive means** to further a **compelling governmental interest**.

What the Supreme Court Must Consider

Burden on Employer

Burden on Government



Ramifications of the Decision Affect Health Care and Beyond

- How could it affect the contraceptive coverage received by women and dependents working in businesses that have religious objections to contraception?
- What could it imply for business owners who have religious beliefs that conflict with various aspects of health care, including: blood transfusions, vaccinations, infertility treatments, psychiatry treatment and drugs, or health insurance all together?
- How could it affect employers who want to “opt out” of civil rights laws that they claim violate their religious rights?
- How could it affect protections from employment and housing discrimination based on race, gender, religion, national origin, or pregnancy?