

DOL FAQ: Opportunities for Standalone Fertility Coverage

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PRACTICES Employee Benefits and Executive Compensation

Recent FAQs issued by the U.S. Departments of Labor, Health and Human Services, and Treasury (collectively, the “**Departments**”) explained how an employer could offer standalone fertility benefits without violating the Affordable Care Act (“**ACA**”). In general, employer-sponsored health benefits, such as fertility benefits, must be either (i) provided under an ACA-compliant group health plan or (ii) qualify as “excepted benefits” that are not subject to ACA mandates, such as the requirement to cover preventive care. The FAQs describe how fertility benefits could qualify as excepted benefits under existing regulations. Fertility coverage could be offered under a separate specified disease or illness insurance policy that does not coordinate with medical coverage and meets specific requirements. An employer could also cover fertility benefits under an excepted benefit health reimbursement arrangement (“**HRA**”) that meets specific requirements, including an annual limit of \$2,150 (for 2025, as adjusted). The Departments indicated that they are considering additional ways that fertility benefits may be offered as excepted benefits, including ways that such benefits could be self-funded by an employer.

DOL FAQ Part 72 is available [here](#).