New FAQs Address Required Exceptions Process for Contraceptive Coverage

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The federal Departments of Treasury, Labor, and HHS jointly issued a new set of FAQs to address implementation of certain provisions of the Affordable Care Act (the "***ACA***"). The FAQs provide a new therapeutic equivalence method to satisfy the ACA's contraceptive coverage requirement. Under the therapeutic equivalence approach, group health plans may cover all FDA-approved contraceptive drugs and drug-led devices in a category, without cost sharing, other than those for which there is at least one therapeutic equivalent drug or drug-led device that the plan covers without cost sharing.

The FAQs also clarify that group health plans must provide an "easily accessible, transparent, and sufficiently expedient exceptions process" for contraceptive coverage, regardless of the approach that the group health plan uses to comply with the ACA's contraceptives mandate (*i.e.*, the prior approach or the therapeutic equivalence method). Such exceptions process should allow covered participants to access specific contraceptive drugs or drug-led devices, without cost sharing, that are determined to be medically necessary or medically appropriate for the covered participant by the attending provider.

Group health plan sponsors should review their plan and SPD documents to ensure they comply with these contraceptive coverage requirements.

The FAQs are available here.

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