

## Trump Executive Order Regarding Contraceptive Mandate Directed toward Religious Employers

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Late last week, President **Donald Trump** signed an [executive order](#) directing federal agencies to look into exempting religious employers from the **Affordable Care Act's (ACA) contraceptive mandate**. Qualifying religious employers (e.g. houses of worship) are already exempt from providing contraceptive coverage under their benefit plans, and an accommodation process is provided for certain non-profit employers and closely held for-profit employers with religious objections to providing contraceptive coverage.

This new executive order is aimed at organizations like universities and charities, including entities such as the plaintiffs in **Zubik v. Burwell**. Last year, in *Zubik*, the US Supreme Court failed to decide whether the contraceptive-coverage mandate requirements (Contraception Mandate) and its accommodation violated the Religious Freedom Restoration Act of 1993 (RFRA) by forcing religious non-profits to act in violation of their religious beliefs. Although the ACA regulations included an exemption from contraceptive coverage for the group health plans of religious employers, the exemption did not provide that such services would not be covered. The services are just not covered through a cost-sharing mechanism born by the religious employers. The Contraception Mandate requires these organizations to “facilitate” the provision of insurance coverage for contraceptive services that they oppose on religious grounds. Many religious organizations were opposed to the requirement to facilitate, since they felt the requirement made them complicit in making contraception available, which violates their RFRA rights.

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