Health Reform WK-EDGE Wrap Up, CONTRACEPTION COVERAGE
—NEWS: Five more states join legal fight against expanded exemptions, (Nov. 8, 2017)

Health Reform WK-EDGE Wrap Up

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Five states filed a lawsuit against the federal government to challenge the two interim final rules broadening the exemptions under the Patient Protection and Affordable Care Act’s (ACA) (P.L. 111-148) contraception coverage mandate. The latest complaint joins a series of legal challenges to the expanded exemptions filed by other states and organizations.

The interim final rules (82 FR 47838 and 47792, October 13, 2017) provide conscience protections to individuals with a religious or moral objection to paying for health insurance that covers contraceptive/abortifacient services. One final rule exempts entities that have sincerely held religious beliefs against providing such services, and the other exempts organizations and small businesses that have objections on the basis of sincerely held moral convictions that are not based in any particular religious belief (see New regulations provide opportunity for moral objection to contraceptive coverage, October 18, 2017). The Trump Administration stated that the rules will not affect over 99.9 percent of the 165 million women in the U.S., and House Speaker Paul Ryan (R-Wis) lauded the "commonsense rule."

The complaint, filed by the states of California, Delaware, Maryland, New York, and Virginia, alleges that that interim the final rules violate the Administrative Procedure Act, the Establishment Clause of the First Amendment, and the Equal Protection Clause of the Fifth Amendment and seeks injunctive relief. Virginia Attorney General Mark Herring called the interim final rules "dangerous, discriminatory, and illegal." California Attorney General Xavier Becerra warned that the interim final rules jeopardize the ACA’s requirement that employers provide coverage of birth control with no out-of-pocket costs. They could, he said, leave millions of women in California without access to contraceptives and counseling, leaving the state to shoulder the additional burden as women seek coverage through state-funded programs.

The states’ complaint joins numerous other legal challenges, including those filed by Massachusetts, California, Washington, and the American Civil Liberties Union.