

# Legal Update

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## Court Blocks Change to Preventive Care Contraceptive Guidelines

On Aug. 12, 2022, a federal district court blocked the Department of Health and Human Services' (HHS) Health Resources and Services Administration (HRSA) from removing "instruction in fertility awareness-based methods, including the lactation amenorrhea method" from its [list of recommended preventive health services](#).



### Women's Preventive Care Guidelines

The HRSA established and periodically updates guidelines for preventive care services for women. Group health plans subject to the Affordable Care Act's (ACA) preventive care coverage requirements must provide coverage for the services listed in the HRSA guidelines without cost sharing.

Historically, fertility awareness-based methods of family planning were included in the HRSA guidelines as an alternative to traditional contraceptives. However, these methods were removed from the HRSA guidelines when they were updated in 2021.

### Federal Court's Ruling

A provider sued HHS for removing fertility awareness-based methods of family planning from the HRSA preventive health services guidelines, arguing that HRSA did not follow proper procedures when updating the guidelines.

The federal court granted a preliminary injunction that delays the effective date of the removal of fertility awareness-based methods until the lawsuit is resolved. According to the court, the updated guidelines effectively eliminated the requirement to provide cost-free coverage of instruction in fertility awareness-based methods of family planning, and that the HRSA failed to call out the change in its draft recommendations. Therefore, affected individuals were not given the opportunity to comment on the change.

Despite the removal of fertility awareness-based methods of family planning in the HRSA guidelines, federal agencies issued [FAQs](#) to clarify that plans must continue to provide coverage for this type of instruction without cost sharing under the updated HRSA guidelines.

## Highlights

### Contraceptive Mandate

The ACA requires non-grandfathered group health plans to cover, without cost sharing, the full range of FDA-approved, -granted or -cleared contraceptives and contraceptive care.

### Updated Guidelines

The HRSA updated its guidelines for women's preventive services in 2021. The updated guidelines apply for plan years beginning in 2023.

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***Federal agencies clarified that plans must continue to provide coverage for fertility awareness-based methods of family planning without cost sharing.***