

CEA Legal Victories Provide Exemptions from HHS Abortifacient and EEOC Transgender Mandates

Christian Employers Alliance (CEA) has filed and won two lawsuits to protect their members from federal mandates which violate their Christian Values. As a result of these victories, present and future members of CEA are guaranteed exemptions from federal regulations that require employers to provide coverage for two areas of benefits in their group health plan.

The first exemption is for abortion-causing drugs and devices (“abortifacient services”). Pursuant to this legal victory, employers may request their insurer to remove all abortifacient services from their sponsored health plan. Specifically, they may ask that the insurer insert the following statement in their plan document and that it should apply to all plan services, whether those services are under the policy or otherwise offered alongside the policy to beneficiaries:

“Emergency contraceptives (such as Plan B and Ella), any abortifacients, or any IUDs for contraceptive use are not covered.”

Under the Affordable Care Act and related regulations, group health plans must provide coverage for abortifacient services without cost sharing (the “abortifacient mandate”). Christian businesses and organizations cannot provide this coverage without violating their Christian values.

To protect member companies, CEA filed and won a lawsuit against the abortifacient mandate: *Christian Employers Alliance v. Azar*, No. 3:16-cv-309 (D.N.D.). On May 15, 2019, the Court granted the CEA, its members, and their insurers permanent injunctive and declaratory relief from the mandate. Specifically, the Court permanently enjoined the federal government from enforcing the abortifacient mandate or assessing penalties or fines against the CEA “and its members, their health plans, and their insurers and third-party administrators.”

The second exemption is for any services or procedures rendered on the basis of gender identity, gender reassignment, or gender transition. Pursuant to this exemption, CEA members may request their insurer to remove all gender reassignment services or procedures from their sponsored plan and confirm any necessary changes to their plan in writing. Specifically, they may request their insurer to insert the following statement in their plan document:

“Services or procedures rendered on the basis of gender identity, gender reassignment, or gender transition, including hormone treatment, surgical procedures, and transgender treatment/ sex therapy are not covered.”

The Equal Employment Opportunity Commission (EEOC) has determined that failure to cover these treatments, procedures, and services in an employer health plan is a violation of Title VII’s prohibition against discrimination on the basis of sex. Additionally, under section 1557 of the Affordable Care Act and related regulations, the Department of Health and Human Services (HHS) requires any medical provider who receives federal funding to perform gender transition surgeries,

procedures, counseling, and treatments in violation of their medical judgment and religious beliefs, and to compel and restrict those providers' speech concerning these activities.

CEA filed and won a lawsuit against the transgender mandates: *Christian Employers Alliance v. Equal Employment Opportunity Commission*, No. 1:21-cv-195 (D.N.D.). On March 4, 2024, the Court granted the CEA, its members, and their insurers permanent injunctive and declaratory relief from the mandates. Specifically, the Court permanently enjoined the federal government "from interpreting or enforcing Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq., or any implementing regulations thereto against CEA or its present or future members, or anyone acting in concert or participation with them, and their respective health plans and any insurers or TPAs in connection with such health plans, in a manner that would require them to provide insurance coverage for gender-transition procedures in those plans, including by denying federal financial assistance because of their failure to provide insurance coverage for such procedures or by otherwise pursuing, charging, or assessing any penalties, fines, assessments, investigations, or other enforcement actions."

Additionally, the Court "permanently enjoined HHS... from interpreting or enforcing Section 1557 of the Affordable Care Act, 42 U.S.C. § 18116(a), or any implementing regulations thereto against CEA or its present or future members, or anyone acting in concert or participation with them, and their respective health plans and any insurers or TPAs in connection with such health plans, in a manner that would require them to perform or provide insurance coverage for gender-transition procedures, including by denying federal financial assistance because of their failure to perform or provide insurance coverage for such procedures or by otherwise pursuing, charging, or assessing any penalties, fines, assessments, investigations, or other enforcement actions."

Concisely and practically speaking, this means privately held Christian-owned businesses and organizations would gain tremendous legal protections over their healthcare plan should they become members of the CEA and can request that their insurer and their third-party administrator remove abortifacient and transgender services from their healthcare plan and not fear enforcement actions from the EEOC or HHS, should their plans not have protections under a "church plan" for example.

Additionally, Christian-owned businesses can further their values and help contain health plan costs through Covenant Choice, a Group Stop Loss Captive program, through CEA, offering a community of private, like-minded employers to bring transparency, strength in numbers, cost-containment solutions, and fierce protection of religious freedoms to their self-funded healthcare plans. Covenant Choice was developed in cooperation with Berkley Accident and Health, a leading provider of Stop Loss Group Captive programs. For more than 15 years, Berkley has provided reliable health funding solutions to companies nationwide.

We invite you to [join CEA](#) and consider Covenant Choice for your self-funded healthcare needs as CEA is the only Christian business organization providing this exemption for its members. For additional information, please contact Jason Dudziak, CEA Membership Manager, at jdudziak@christianemployersalliance.org or Ericka McPherson, Executive Director of Covenant Choice at ericka.mcpherson@covenantchoice.org.