

FDA Approves First Over-the-Counter Daily Oral Contraceptive

On July 13, 2023, the U.S. Food and Drug Administration (FDA) [announced](#) that it approved the first nonprescription daily oral contraceptive to prevent pregnancy. This drug is expected to become available to consumers without a prescription from stores and online retailers in early 2024.

Insurance Coverage

The Affordable Care Act (ACA) requires most group health plans and health insurance issuers to provide first-dollar coverage of certain specified preventive services for women, including all FDA-approved contraceptives, as prescribed by a health care provider.

The ACA's contraceptive coverage mandate does not cover over-the-counter oral contraceptives that are obtained without a prescription. It is possible that the Biden administration or Congress will take action

to expand insurance coverage of over-the-counter oral contraceptives. In the meantime, employers should review the terms of their health coverage to determine the scope of their plan's coverage of contraceptives.

HSAs, Health FSAs and HRAs

Individuals can pay for over-the-counter medicines, including contraceptives, using their health savings accounts (HSAs). Health flexible spending accounts (FSAs) and health reimbursement arrangements (HRAs) may be designed to reimburse all over-the-counter drugs. Thus, although the ACA does not require health plans to cover nonprescription oral contraceptives without cost sharing, consumers may be able to use their HSAs, health FSAs or HRAs to pay for this medication.

Draft Forms for 2023 ACA Reporting Released

The IRS has released draft 2023 forms for reporting under Internal Revenue Code Sections 6055 and 6056. Draft instructions for these forms have not yet been released.

- **2023 draft Forms [1094-B](#) and [1095-B](#)** are drafts of the forms used by providers of minimum essential coverage, including self-insured plan sponsors that are not applicable large employers (ALEs), to report under Section 6055.
- **2023 draft Forms [1094-C](#) and [1095-C](#)** are drafts of forms ALEs use to report under Section 6056 and for combined Section 6055 and 6056 reporting by ALEs who sponsor self-insured plans.

No major substantive changes were made to the draft forms for 2023 reporting. However, certain changes may be made

once these forms are finalized or when draft or final instructions are released.

Reporting Deadlines

Individual statements for 2023 are due 30 days from Jan. 31, 2024. Because 2024 is a leap year, the deadline for individual statements is **March 1, 2024**.

Electronic IRS returns for 2023 must be filed by March 31, 2024. However, since this is a Sunday, electronic returns must be filed by the next business day, which is **April 1, 2024**. Paper IRS returns for 2023 must be filed by Feb. 28, 2024; however, paper filing will not be an option for most employers beginning in 2024.