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Supreme Court Rejects Challenge to FDA Approval of Mifepristone: Impact on Health Plans

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Today, the U.S. Supreme Court rejected a challenge to the U.S. Food and Drug Administration (FDA) approval of the drug mifepristone, which is used as part of a two-drug protocol to induce abortion. The Court ruled that the providers seeking to overturn the FDA approval did not have standing, because the providers were not directly impacted by the FDA's actions. This decision means that mifepristone will remain available under current FDA guidelines, which permit dispensation of the drug without an in-person appointment and allow the drug to be sent by mail.

Takeaways for group health plan sponsors and employers: Readers of our prior blog will recall that the Supreme Court had issued a stay of the enforcement of the district court order that had originally invalidated the FDA approval at issue in this case. That enforcement stay meant that mifepristone remained available under the current FDA dispensing guidelines, and group health plans were not directly impacted by the litigation. Today's decision by the Supreme Court maintains that status quo, meaning that mifepristone should remain generally available subject to current FDA guidelines—and, of course, subject to potential future challenges on different legal theories. Coverage of abortion medication by group health plans continues to be subject to the general considerations described in our guide to abortion coverage for group health plan sponsors, which can be downloaded here.

View original.

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