



# Pennsylvania Catholic Health Association

223 North Street, Box 2835, Harrisburg, PA 17105  
717-238-9613 • FAX 717-238-1473  
pcha@pacatholic.org

Sister Clare Christi Schiefer, OSF  
President

## **Submitted Electronically**

September 13, 2011

Centers for Medicine & Medicaid Services  
Department of Health and Human Services  
ATTN: CMS-9992-IFC2  
P.O. Box 8010  
Baltimore, MD 21244-8010

RE: Interim Final Rules on Preventive Services  
File Code CMS-9992-IFC2

Dear Ladies and Gentlemen:

On behalf of the Pennsylvania Catholic Health Association, this letter is submitted to comment upon the interim rule on preventive services for women, 76 Fed. Reg. 46621 (August 3, 2011).

The Pennsylvania Catholic Health Association (PCHA) is a statewide organization comprised of Catholic health care facilities, groups and individuals. It promotes the Catholic health care ministry in Pennsylvania and supports this ministry through Gospel witness in advocacy and united action. PCHA advocates for the sanctity of life and for justice in health care. Its advocacy especially recognizes the needs of the elderly, children, the poor and the underserved. Among its leadership and advocacy efforts, PCHA acts to protect the integrity and conscience of Catholic health care providers, Catholic employers and others as their interests are guided by the ethical and moral teachings of the Church.

Included in PCHA's membership are 14 hospitals; 34 long term care facilities; and numerous health care systems and other related health care entities.

What is remarkable is that this mandate makes pregnancy a disease, a malady or an unhealthy condition to be prevented. While the societal reality is that prescription contraceptive drugs and devices are widely used, their use is elective and is to prevent a human life and to interfere with the natural order. The mandate targets an "inconvenience" and inherently endorses "family planning". But to include contraception and surgical sterilization as essential health services is to trivialize the real diseases which otherwise are appropriately included in the mandate.

*An Associate of the Pennsylvania Catholic Conference*

It cannot be ignored that here, in the Commonwealth of Pennsylvania, there is no mandated coverage of contraception in health insurance. That is not because efforts have not been initiated to enact such a law. But, in each case, over many legislative sessions, the issue has not had any legislative traction. And, if there had been legislative interest, we are confident, given the Commonwealth's rich tradition of respecting religion, that a religious and moral exemption of the broadest form would have been adopted. But this federal mandate would impose upon Pennsylvania's citizens, Catholic health care facilities and churches a coverage requirement that has never been embraced here.

This comment also reacts to the religious "exemption" in the mandate which fails miserably to assure that religious conscience is protected.

In order to satisfy the religious employer exemption, an organization would need to satisfy four criteria:

- (i) its purpose is the inculcation of religious values;
- (ii) it primarily hires persons who share the organization's religious tenets;
- (iii) it primarily serves people who share the religious tenets; and
- (iv) it is a nonprofit as described in sections 6033(a)(1) and section 6033(a)(3)(A)(i) or (iii) of the Internal Revenue Code.

The exemption is so narrowly crafted that it is difficult to identify a PCHA member which would satisfy the criteria. Yet no one could reasonably suggest there is no Catholic health care ministry. In fact, it is thriving and continues a tradition established hundreds of years ago when religious Sisters came to Pennsylvania to continue Christ's healing ministry and to serve those in need. For a government to craft its own view of religious activity is an affront to the Catholic health care ministry.

Without a broad religious exemption, the mandate forces the Catholic health care facilities and PCHA members to be complicit in funding what is deemed by them to be morally and ethically unacceptable. In fact, the facilities could not directly do what the mandate forces them to pay for. (See *Ethical and Religious Directives for Catholic Health Care Services*, Directives 45, 52 and 53). In the Catholic tradition, to include such a mandate facilitates the occasion for grave sin which cannot be theologically or morally tolerated or sanctioned. The religious exemption gives a Catholic health care facility the "choice" to provide coverage which is ethically improper and contrary to its religious foundations or to refashion itself to fit the narrow criteria of the exemption. In effect, this gives them no choice.

I emphasize the grave concern that this attempt by government to define what is and what is not religious is fraught with danger. It ignores this nation's foundations which were built upon freedom of conscience and freedom of religion. The religious exemption directly violates the Religious Clauses of the First Amendment to the United States Constitution.

The HHS mandate relating to prescription contraception, surgical sterilization and related counseling must be rescinded. If that does not occur, then HHS must unequivocally exclude drugs that are abortifacients (regardless of their characterization as being contraceptive)

and proceed to exclude from the mandate employers, educational facilities, insurers and individuals with religious or moral objections.

PCHA, on behalf of its member healthcare facilities, endorses and joins in the comments about the Interim Final Rules on Preventive Services which were submitted by the Office of the General Counsel, United States Conference of Catholic Bishops on August 31, 2011.

Thank you for your attention to this critical matter.

Sincerely,



Sister Clare Christi Schiefer, OSF  
President  
Pennsylvania Catholic Health Care Association

cc: PCHA Members  
PCHA Board of Directors  
Richard E. Connell, Esq., PCHA Legal Counsel  
Dr. Robert J. O'Hara, Jr., Executive Director, PA Catholic Conference

Excerpts from *Ethical and Religious Directives for Catholic Health Care Services*

**45.** Abortion (that is, the directly intended termination of pregnancy before viability or the directly intended destruction of a viable fetus) is never permitted. Every procedure whose sole immediate effect is the termination of pregnancy before viability is an abortion, which, in its moral context, includes the interval between conception and implantation of the embryo. Catholic health care institutions are not to provide abortion services, even based upon the principle of material cooperation. In this context, Catholic health care institutions need to be concerned about the danger of scandal in any association with abortion providers.

**52.** Catholic health institutions may not promote or condone contraceptive practices but should provide, for married couples and the medical staff who counsel them, instruction both about the Church's teaching on responsible parenthood and in methods of natural family planning.

**53.** Direct sterilization of either men or women, whether permanent or temporary, is not permitted in a Catholic health care institution. Procedures that induce sterility are permitted when their direct effect is the cure or alleviation of a present and serious pathology and a simpler treatment is not available. (*Cf. Congregation for the Doctrine of the Faith, "Responses on Uterine Isolation and Related Matters," July 31, 1993, Origins 24 (1994): 211-212.*)