



PENNSYLVANIA CATHOLIC CONFERENCE

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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 Conference, the public affairs arm of the Church in Pennsylvania which was established under the authority of the eight Latin Rite Catholic dioceses and the two Byzantine Catholic dioceses in the Commonwealth of Pennsylvania, this letter is submitted to comment upon the interim rule on women's preventive services, 76 Fed. Reg. 46621 (August 3, 2011). Within the dioceses are over 3.2 million Catholics; over 1,000 parishes; nearly 500 Catholic schools; 27 Catholic colleges; nearly 100 Catholic social service agencies; 14 Catholic hospitals; 34 long-term care facilities, numerous health care systems and other related health care entities; and over 6,000 women and men religious. The interim rule is one of significant impact upon the Church in Pennsylvania and that impact will not go unnoticed within the vast Catholic community.

This letter is written to express strong opposition to the mandate issued, pursuant to authority under the Patient Protection and Affordable Care Act, that coverage in private health plans must include surgical sterilization, prescription contraceptives and related patient education and counseling. Included among the covered prescription contraceptives is at least one drug, Ella, which can cause an abortion. And, the likelihood is that the Food and Drug Administration will, in the future, approve additional contraceptive drugs which will be abortifacient in effect and would be a covered preventive service.

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.

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

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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 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. The religious exemption is so narrowly crafted that hospitals, universities, religious affiliated social service agencies, Catholic dioceses, parishes and even Catholic elementary schools would be subject to the contraceptive/sterilization mandate. Ignoring the broad nature of the Church's religious ministries and the care, services and education provided to a diverse group by mandating coverage is an unwarranted attack on religion in general.

Without a broad religious exemption extending to employers, religiously based insurers and individuals, the mandate forces the Church and individuals to be complicit in funding what is deemed by them to be morally and ethically unacceptable. 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 the Church the "choice" to provide coverage which is ethically improper and contrary to its religious teachings or to refashion itself to fit the narrow criteria of the exemption.¹ In effect, this is no choice.

We emphasize our 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.²

Sincerely,



Robert J. O'Hara, Jr.
Executive Director
Pennsylvania Catholic Conference

¹ 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 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.

² PCC, on behalf of the Pennsylvania Bishops, 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.