



FEDERAL LEGISLATIVE

ACTION ALERT

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HHS's Contraceptive Mandate Violates Conscience Rights

In implementing the 2010 Patient Protection and Affordable Care Act, the Health Resources and Services Administration of the U.S. Department of Health and Human Services recently issued guidelines *requiring* almost all private health plans to cover contraception and sterilization as “preventive services” for women. On August 3, HHS published an interim final rule that references these guidelines, and allows HRSA to implement a very narrow and inadequate religious exemption. This action poses an *unprecedented threat* to the religious freedom of individuals and institutions.

The required services include: *"All Food and Drug Administration approved contraceptive methods, sterilization procedures, and patient education and counseling for all women with reproductive capacity."* Until now, no federal law has required private health plans to cover these.

HRSA's statement that these recommendations “do not include abortifacient drugs” is misleading. The FDA-approved “emergency contraception” (EC) drugs covered by this mandate can work by interfering with implantation. Also, the drug the FDA most recently approved for EC, “Ella,” a close analogue to the abortion drug RU-486, has been shown in animal tests to cause abortion. Thus, the mandate includes drugs that may cause an abortion both before and after implantation.

The religious exemption allowed by the interim final rule is not only extremely narrow but unprecedented in federal law. It covers only a “religious employer” that has the inculcation of religious values as its purpose, primarily employs and serves persons who share its religious tenets, and is a church organization under two narrow provisions of the tax code. Plans offered by a great many religious organizations, including Catholic colleges and universities as well as hospitals and charitable institutions that serve the general public, would be ineligible under these terms. Individuals and health insurance companies do not qualify at all for this exemption.

The public comment period on this interim final rule ends September 30.

For a short background, see: www.usccb.org/about/pro-life-activities/preventive-services-backgrounder.cfm.

ACTION: Please send an e-mail message to HHS through the NCHLA Grassroots Action Center: nchla.org/actiondisplay.asp?ID=299. Personal comments can be added. As is the practice, all comments and information submitted to HHS will be made available online. NCHLA will forward *only* your name (first and last) and your message.

- A longer document can be sent to HHS electronically at www.regulations.gov, file code CMS-9992-IFC2.
- A note: After you send your comments to HHS, you will also have an opportunity to send a message to your elected representatives in Congress, urging them to support the Respect for Rights of Conscience Act (H.R. 1179/S. 1467) to ensure that such federal mandates do not violate Americans' moral and religious convictions.

MESSAGE TO HHS: “Pregnancy is not a disease, and drugs and surgeries to prevent it are not basic health care that the government should *require* all Americans to purchase. Please remove sterilization and prescription contraceptives from the list of “preventive services” the federal government is *mandating* in private health plans. It is especially important to exclude any drug that may cause an early abortion, and to fully respect religious freedom as other federal laws do. The narrow religious exemption in HHS's new rule protects almost no one. I urge you to allow all organizations and individuals to offer, sponsor and obtain health coverage that does not violate their moral and religious convictions.”

WHEN: Please send in your comments to HHS by the September 30 deadline. Thanks!

9/1/11

Background: The New Federal Mandate for Contraception/Sterilization Coverage

On August 1, the U.S. Department of Health and Human Services (HHS) issued an "interim final rule" that will require virtually all private health plans to include coverage for all FDA-approved prescription contraceptives, female sterilization procedures, and related "patient education and counseling for all women with reproductive capacity." These are listed among "preventive services for women" that all health plans will have to include without co-pays or other cost-sharing -- regardless of whether the insurer, the employer or other plan sponsor, or even the woman herself objects to such coverage. **Concerned Americans have until September 30 to comment to HHS: visit the [Action Center](#) at The National Committee for a Human Life Amendment.**

Important points:

1. Pregnancy Not a Disease

The mandate treats a healthy pregnancy as a disease in need of "prevention," like breast cancer or AIDS (which other "preventive services" on HHS's list do legitimately seek to prevent). In reality, some of the mandated contraceptives are associated with an *increased* risk of AIDS, blood clots leading to stroke, and other ailments. Inclusion of these drugs places HHS's effort to prevent disease at war with itself.

The claim that greater access to contraceptives will reduce abortions is **not supported by the facts**. The contraceptive mandate's strongest advocates are groups that perform and promote abortion, who hope a coverage mandate for "prevention" will encourage government and others to see abortion as a "cure." Everyone deserves access to basic life-affirming health care, and health care reform is supposed to serve that goal. The effect of this mandate is just the opposite, as it pressures organizations to drop their health coverage for employees and others altogether if they have a moral or religious objection to these particular items.

2. The Problem of Abortifacient Drugs

By requiring coverage for all drugs approved for contraception and "emergency contraception" by the FDA, the mandate includes drugs that can interfere with implantation in the womb and therefore destroy the early human embryo.

One such drug already approved, "Ella" (ulipristal), is very similar to the abortion drug RU-486 in its formula and its ability to cause an abortion in the first *weeks* of pregnancy. The new health care reform law forbids HHS to mandate coverage of abortion, but it is doing so here.

3. Violating Religious Freedom and Rights of Conscience

The rule has an incredibly narrow religious exemption for "religious *employers*" (not insurers, schools with student health plans, or families purchasing insurance). Even religious employers are exempt only if their purpose is to inculcate religious doctrine, they hire *and serve* mainly people of their own faith, *and* they qualify as a church or religious order in a very narrow part of the tax code. Most religious institutions providing health, educational or charitable services to others have no protection. Jesus himself would not qualify as "religious enough," since he healed the needy regardless of religious affiliation and taught followers to do the same (parable of the Good Samaritan).

HHS says this exemption is like those enacted by most states that have a contraceptive coverage mandate, but that is false. None of the state mandates covers as wide an array of health plans, and the great majority have broader protection for religious freedom.

Many federal laws exempt individuals and institutions from having to take part in health services against their moral or religious convictions; some of these laws specifically protect from forced involvement in contraception or sterilization. HHS is violating this long federal tradition, and needs to return to it. Congress should also approve the "Respect for Rights of Conscience Act" (H.R. 1179, S. 1467) to ensure that this happens.

Mailing address for comments: Secretary Kathleen Sebelius, U.S. Dept of Health and Human Services, 200 Independence Avenue, S.W., Washington, D.C. 2020