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September 29, 2011

Transmitted Electronically

Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
P.O. Box 8010
Baltimore, MD 21244-8010

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

Dear Sir or Madam:

As the Catholic Diocesan Bishops serving in Nebraska, we write to express our concerns and objections regarding the Interim Final Rule that would, by adopting the HRSA guidelines for preventive services, mandate full coverage of costs associated with sterilization procedures and all FDA-approved contraceptive devices and drugs in all but an extremely narrow category of health plans. We hasten to add that this mandate would include drugs (e.g., *ulipristal acetate*/"ella") that can kill early-stage human embryos both before and after implantation—thereby creating a contradiction, if not a violation, with regard to both federal and state statutory prohibitions on mandating coverage of abortion.

We respectfully request and urge that this mandate be rescinded, because it fails to respect and protect religious liberty and convictions of conscience. It would unjustly, unwisely and unnecessarily prohibit both employers and individuals from purchasing any health-insurance plan that would not pay for sterilization and contraceptives. It would unjustly, unwisely and unnecessarily prohibit issuers of insurance from offering any health plan that would not cover sterilization and contraception. In effect, this would constitute an unprecedented, ill-advised governmental coercion of people and entities nationwide to accept certain health-insurance coverage regardless of any moral or religious objection they might have to it. This would be a radical violation of rights of conscience of those so impacted and a radical departure from this nation's historic commitment to religious liberty.

The Catholic Church teaches that sterilization and the use of artificial contraceptive drugs and devices are morally proscribed. Therefore, complying with the proposed mandate would be an implicit endorsement of sinful conduct. Regrettably, under such circumstances, not providing or subsidizing any health-care coverage at all would likely be viewed as the

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the lesser evil from a Catholic organization's perspective as an employer (e.g., a faith-based provider of health-care, social-services or education on a major scale). The government mandate would coercively force Catholic entities into this position by otherwise compelling actions contrary to religious convictions and by failing to respect their religious identity and integrity. Moreover, the Rule's exemption for certain religious employers (i.e., organizations; none whatsoever for individuals and issuers of insurance) is so narrowly constructed as to be incredibly inadequate. What's more, the exclusion of "grandfathered" plans has little if any significant meaning; future modifications of current plans are all but eventual and inevitable given changing needs, market forces and industry standards.

We consider it irrefutable that human fertility is not a disease and that contraception is not disease prevention and therefore should not be regarded as a "preventive service." From this perspective, it is abundantly clear that this proposed mandate would be more an ideological policy than a health-care-coverage policy. It is wrong and unjust for such a policy to be coercively applied.

Again, we urge that the Interim Final Rule be rescinded insofar as it mandates coverage of sterilization procedures and contraceptive drugs and devices. At the very least, the rule should be substantially revised to provide thorough, meaningful and effective accommodation for religious beliefs and convictions of conscience.

Respectfully submitted,



Most Rev. George J. Lucas
Archbishop of Omaha



Most Rev. Fabian W. Bruskewitz
Bishop of Lincoln



Most Rev. William J. Dendinger
Bishop of Grand Island

cc U.S. Senator Ben Nelson
U. S. Senator Mike Johanns
U.S. Representative Jeff Fortenberry
U.S. Representative Lee Terry
U.S. Representative Adrian Smith
Honorable Kathleen Sebelius, Secretary HHS