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BACKGROUND:

THE NEW FEDERAL MANDATE FOR CONTRACEPTION/STERILIZATION COVERAGE

On August 1, 2011, the U.S. Department of Health and Human Services (HHS) issued an “interim final rule” to 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 -- even if the insurer, the employer or other plan sponsor, or the woman herself object to such coverage. There have been many protests, including formal comments filed with HHS by many organizations and a petition signed by over 430 Catholic leaders (see www.usccb.org/issues-and-action/religious-liberty/conscience-protection/) -- but to date HHS has not changed its rule. 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 (<http://old.usccb.org/prolife/issues/contraception/contraception-fact-sheet-3-17-11.pdf>). 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 (see the 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 (<http://old.usccb.org/prolife/issues/abortion/crmay08.pdf>) . 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.

More sources:

Comment letter to HHS with complete documentation: www.usccb.org/about/general-counsel/rulemaking/upload/comments-to-hhs-on-preventive-services-2011-08.pdf

USCCB statement on HHS mandate, August 1, 2011: www.usccb.org/news/2011/11-154.cfm