



Secretariat of Pro-Life Activities

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The February 2013 version of the federal contraceptive/abortifacient/sterilization mandate

In February 2013, the Obama administration issued a “proposed rule” suggesting revisions of its contraceptive mandate (78 *Fed. Reg.* 8456 ff. [Feb. 6, 2013]). Public comments are due by April 8. Basic points on the proposal:

- 1. The mandate is unchanged.** Almost all health plans must cover female sterilization, all FDA-approved “contraceptives” – including drugs and devices that can prevent implantation, and at least one drug (Ella) that can cause abortion after implantation – and related “education and counseling” for women and girls of reproductive age.
- 2. The “religious employer” exemption still excludes most religious organizations.** An earlier, widely criticized four-part definition of a “religious employer” has been reduced to one factor. Only a church, its integrated auxiliary, a convention or association of churches, or the exclusively religious activities of a religious order are exempt. While the Administration has dropped other requirements (e.g., that the employer must hire and serve primarily people of its own faith), it says the shorter definition primarily covers “houses of worship” and is *not* intended to “expand the universe” of those exempted (Id. at 8461). In one respect the new exemption is narrower: An earlier suggestion that a school or other religious nonprofit entity that does not qualify for the exemption might avoid the mandate, by joining with an exempt employer such as a diocese to offer a common health plan, has been withdrawn.
- 3. The proposed “accommodation” for non-exempt religious employers does not remove the burden on religious freedom.** A wide array of religious organizations serving the common good – schools, colleges and universities, hospitals, charitable agencies – are not exempt. After August 1, their employees (and employees’ dependent female children) will be “automatically” enrolled in the mandated coverage. The “accommodation” is that arrangements for imposing this “separate” coverage, and for notifying employees about it, will be made by others – by the insurance company in the case of insured plans, by the third-party administrator in the case of self-insured plans. However, the employer is still called upon to help fund and/or facilitate the objectionable coverage.
- 4. Many with moral and religious objections remain ineligible for any exemption or “accommodation.”** These include: Individual purchasers and their families; employees of religious organizations that qualify only for the “accommodation” (since these employees will still be automatically enrolled in the objectionable coverage); for-profit companies and businesses, including those owned and controlled by religious believers; nonprofit employers who are not explicitly religious in character (e.g., pro-life groups that object to abortifacients).

To voice your objection to this denial of religious freedom, submit a comment to the Administration at www.nchla.org. For more information, including the USCCB’s March 2013 comment letter on the latest version of the mandate, see www.usccb.org/conscience.