

## **Six Things Everyone Should Know About The HHS Mandate**

The United States Conference of Catholic Bishops offers the following clarifications regarding the Health and Human Services regulations on mandatory coverage of contraceptives, sterilization and abortion-inducing drugs.

1. The mandate does not exempt Catholic charities, schools, universities, or hospitals. These institutions are vital to the mission of the Church, but HHS does not deem them "religious employers" worthy of conscience protection, because they do not "serve primarily persons who share the[ir] religious tenets." HHS denies these organizations religious freedom precisely because their purpose is to serve the common good of society—a purpose that government should encourage, not punish.

2. The mandate forces these institutions and others, against their conscience, to pay for things they consider immoral. Under the mandate, the government forces religious insurers to write policies that violate their beliefs; forces religious employers and schools to

sponsor and subsidize coverage that violates their beliefs; and forces religious employees and students to purchase coverage that violates their beliefs.

3. The mandate forces coverage of sterilization and abortion-inducing drugs and devices as well as contraception. Though



commonly called the "contraceptive mandate," HHS's mandate also forces employers to sponsor and subsidize coverage of sterilization. And by including all drugs approved by the FDA for use as contraceptives, the HHS mandate includes drugs that can induce abortion, such as "Ella," a close cousin of the abortion pill RU-486.

4. Catholics of all political persuasions are unified in their opposition to the mandate. Catholics who have long supported this Administration and its healthcare policies have

publicly criticized HHS's decision, including columnists E.J. Dionne, Mark Shields, and Michael Sean Winters; college presidents Father John Jenkins and Arturo Chavez; and Daughter of Charity Sister Carol Keehan, president and chief executive officer of the Catholic Health Association of the United States.

5. Many other religious and secular people and groups have spoken out strongly against the mandate. Many recognize this as an assault on the broader principle of religious liberty, even if they disagree with the Church on the underlying moral question. For example, Protestant Christian, Orthodox Christian, and Orthodox Jewish

groups--none of which oppose contraception--have issued statements against the HHS's decision. The Washington Post, USA Today, N.Y. Daily News, Detroit News, and other secular outlets, columnists, and bloggers have editorialized against it.

6. The federal mandate is much stricter than existing state mandates. HHS chose the narrowest state-level religious exemption as the model for its own. That exemption was drafted by the ACLU and exists in only 3 states (New York, California, Oregon). Even without a

religious exemption, religious employers can already avoid the contraceptive mandates in 28 states by self-insuring their prescription drug coverage, dropping that coverage altogether, or opting for regulation under a federal law (ERISA) that pre-empts state law. The HHS mandate closes off all these avenues of relief.

Additional information on the U.S. Catholic bishops' stance on religious liberty, conscience protection and the HHS ruling regarding mandatory coverage of contraceptives, sterilization and abortion-inducing drugs is available at the.

## **Six More Things Everyone Should Know About the HHS Mandate**

1. The rule that created the uproar has not changed at all, but was finalized as is. Friday evening, after a day of touting meaningful changes in the mandate, HHS issued a regulation finalizing the rule first issued in August 2011, “without change.” So religious employers dedicated to serving people of other faiths are still not exempt as “religious employers.”

Indeed, the rule describes them as “non-exempt.”

2. The rule leaves open the possibility that even exempt “religious employers” will be forced to cover sterilization.

In its August 2011 comments, USCCB warned that the narrow “religious employer” exemption appeared to provide no relief

from the sterilization mandate—only the contraception mandate—and specifically sought clarification. (We also noted that a sterilization mandate exists in only one state, Vermont.) HHS provided no clarification, so the risk remains under the unchanged final rule.

3. The new “accommodation” is not a current rule, but a promise that comes due beyond the point of public accountability. Also on Friday evening, HHS issued regulations describing the intention to develop more regulations that would apply the same mandate differently to “non-exempt, non-profit religious organizations”—the charities, schools, and hospitals that are still left out of the “religious employer” exemption. These policies will be developed over a one-year delay in enforcement, so if they turn out badly, their impact will not be felt until August 2013, well after the election.

4. Even if the promises of “accommodation” are fulfilled entirely, religious charities, schools, and hospitals will still be forced to violate their beliefs. If an employee of these second-class-citizen religious institutions wants coverage of contraception or sterilization, the objecting employer is still forced to pay for it as a part of the employer’s insurance plan. There can be no additional cost to that employee, and the coverage is not a separate policy. By process of elimination, the

funds to pay for that coverage must come from the premiums of the employer and fellow employees, even those who object in conscience.

5. The “accommodation” does not even purport to help objecting insurers, for-profit religious employers, secular employers, or individuals. In its August 2011 comments, and many times since, USCCB identified all the stakeholders in the process whose religious freedom is threatened—all employers, insurers, and individuals, not just religious employers. Friday’s actions emphasize that all insurers, including self-insurers, must provide the coverage to any employee who wants it. In turn, all individuals who pay premiums have no escape from subsidizing that coverage. And only employers that are both non-profit and religious may qualify for the “accommodation.”

6. Beware of claims, especially by partisans, that the bishops are partisan. The bishops and their staff read regulations before evaluating them. The bishops did not pick this fight in an election year—others did. Bishops form their positions based on principles—here, religious liberty for all, and the life and dignity of every human person—not polls, personalities, or political parties. Bishops are duty bound to proclaim these principles, in and out of season.