

## Cardinal criticizes contraceptive mandate

Nancy Frazier O'Brien Catholic News Service | Aug. 2, 2011

**WASHINGTON** (CNS) -- The Department of Health and Human Services' proposed "religious exemption" to the requirement that new or significantly altered health insurance plans cover contraceptives and sterilization for women is "so narrow as to exclude most Catholic social service agencies and health care providers," according to the chairman of the U.S. bishops' Committee on Pro-Life Activities.

Cardinal Daniel N. DiNardo of Galveston-Houston criticized the Aug. 1 announcement by HHS Secretary Kathleen Sebelius that she had accepted the recommendations of the Institute of Medicine on eight "preventive services" that must be included in any health plan under the new Patient Protection and Affordable Care Act.

One of the mandated services is coverage of "all Food and Drug Administration-approved contraceptive methods, sterilization procedures, and patient education and counseling for all women with reproductive capacity."

In announcing her decision, Sebelius also released an "interim final rule" that HHS said would "give religious organizations the choice of buying or sponsoring group health insurance that does not cover contraception if that is inconsistent with their tenets."

But in a footnote to the list of mandated services, HHS defined a religious employer as "one that: (1) has the inculcation of religious values as its purpose; (2) primarily employs persons who share its religious tenets; (3) primarily serves persons who share its religious tenets; and (4) is a nonprofit organization" under specific sections of the Internal Revenue Code.

Those sections "refer to churches, their integrated auxiliaries, and conventions or associations of churches, as well as to the exclusively religious activities of any religious orders," the interim final rule says.

DiNardo said that under that rule, "our institutions would be free to act in accord with Catholic teaching on life and procreation only if they were to stop hiring and serving non-Catholics."

"Could the federal government possibly intend to pressure Catholic institutions to cease providing health care, education and charitable services to the general public?" he asked. "Health care reform should expand access to basic health care for all, not undermine that goal."

In a news release on the proposed exemption, HHS said it is "modeled on the most common accommodation for churches available in the majority of the 28 states that already require insurance companies to cover contraception."

But Michael F. Moses, associate general counsel for the U.S. Conference of Catholic Bishops, told Catholic News Service Aug. 2 that most state mandates to cover contraception do not include self-insured health plans, plans under the Employee Retirement Income Security Act of 1974 and plans that did not cover prescriptions at all.

"This is the narrowest religious exemption we've ever seen proposed in federal law," Moses said, noting that it doesn't cover any individual, any religiously affiliated plan offered to the general public, any religious employer whose purpose is other than the inculcation of religious values, any religious employer that serves the public or any religious organization that doesn't primarily employ persons who share the organization's religious tenets.

"It's certainly narrower than the exemptions in existing federal law" on other matters, he added.

HHS said "the requirements to cover recommended preventive services without any cost-sharing do not apply to grandfathered health plans."

But, Moses said, "you can't be a grandfathered plan forever." If significant changes are made to a plan, the plan will "lose grandfathered status" and be required to cover all FDA-approved contraceptives, including some that can cause an abortion, as well as female sterilization and education and counseling about them.

In its Aug. 1 announcement, HHS also said new health plans or those significantly altered after Aug. 1, 2012, must include without co-pays or deductibles annual well-woman visits, screenings for gestational diabetes, breastfeeding support and supplies, domestic violence screening and counseling, and testing for human papillomavirus, HIV and sexually transmitted diseases.

"These historic guidelines are based on science and existing literature and will help ensure women get the preventive health benefits they need," Sebelius said.

DiNardo said the Obama administration's "failure to create a meaningful conscience exemption to the preventive services mandate underscores the need for Congress to approve the Respect for Rights of Conscience Act," H.R. 1179.

The bill, introduced by Reps. Jeff Fortenberry, R-Neb., and Dan Boren, D-Okla., would allow health insurance plans to exclude procedures that violate the moral or religious convictions of those providing or purchasing the plan.

"HHS says the intent of its 'preventive services' mandate is to help 'stop health problems before they start,'" the cardinal said. "But pregnancy is not a disease, and children are not a 'health problem' -- they are the next generation of Americans."

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