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Miami archbishop: Lawsuit needed to see HHS mandate overturned

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The Obama administration "has not shown any inclination to rescind" its requirement that most religious employers cover contraceptives for their workers, so "we need to get this mandate overturned" by the courts, said Miami Archbishop Thomas G. Wenski.

He made the comments at an afternoon news conference Friday to announce that the Miami Archdiocese has joined the 50 or so other Catholic dioceses, universities and entities throughout the U.S. that have filed a lawsuit against the Department of Health and Human Services contraceptive mandate.

Under the mandate, all employers, including most Catholic and other religious employers, must provide coverage in their health care plans for contraceptives, including some that can cause abortions, and for sterilizations, over any moral objections they have.

"We feel it is a violation" of the First Amendment, the federal Religious Freedom Restoration Act and HHS's rule-making authority, the archbishop said.

The lawsuit was filed in federal court on behalf of the Archdiocese of Miami, Catholic Health Services and Catholic Hospice. It was filed by the archdiocese's legal representatives, J. Patrick Fitzgerald and Associates, along with the Jones Day law firm, which is providing its services pro bono. Jones Day is representing many other Catholic entities in similar lawsuits.

Wenski said Vice President Joe Biden spoke "untruthfully" during the vice presidential debate Oct. 11 when he said there is no problem between the Catholic church and the Obama administration on the health care issue.

Biden stated that "no religious institution, Catholic or otherwise ... has to pay for contraception, none has to be a vehicle to get contraception in any insurance policy they provide."

The mandate, however, has a narrow religious exemption that would protect only those Catholic institutions that seek to inculcate Catholic values and primarily employ and serve Catholics.

"There is a problem. That's why we're suing," Wenski said.

The Catholic church is not opposed to universal health care itself, he said, and in fact proposed a number of options when the Affordable Care Act was being debated in Congress. But the church's position is that universal health care "should kill no one and it should cover everyone," he said.

The current law fails on both counts, the archbishop said, because it requires employers to provide drugs and services that result in the killing of unborn children, and it also excludes "millions of immigrants."

The Catholic church teaches human life is sacred from the moment of conception to natural death, and it has consistently opposed artificial methods of birth control and sterilization, teaching that they violate the total giving of self and openness to life which are intrinsic to God's plan for marriage. The HHS mandate defines contraception and sterilization as preventive health care for women.

"They're trying to make us provide these services to our employees and also to provide them in our institutions," Wenski said. "The state is trying to dictate to the church how we should practice our faith. And this should not be allowed to stand. ... I believe that the archdiocese is defending religious freedom not only for the Catholic Church and its many ministries but for all faiths."

The archdiocese's health plan covers about 6,000 employees in Miami-Dade, Broward and Monroe counties. Catholic Health Services serves about 5,000 people a year in its nursing homes, assisted living facilities and rehabilitation hospitals. About half of those who receive services from the Catholic church are not Catholic.

"We do it not because they're Catholic," Wenski said. "We do it because we are Catholic."

In February, President Barack Obama announced what his administration called an "accommodation," saying religious employers could provide the mandated services without having to pay for them directly -- such as having the insurance companies, rather than the religious entities -- pay for the objectionable services or have a third party cover the cost, like the administrator of the health care plan's prescription coverage.

But the Archdiocese of Miami, like many large employers, is self-insured.

"We are our own insurance company, so therefore we still are behind the eight ball," Wenski said.

Some argue the Catholic church should cease taking money from the government so it would no longer be subject to its rules and regulations.

Joe Catania, president and chief executive officer of Catholic Health Services in the archdiocese, pointed out that "any monies that we receive from the federal government or state government are received on behalf of the people that we care for" in the form of Medicaid and Medicare reimbursements.

"The people that we care for are entitled to those benefits. The people that we serve have made a conscious choice that they want to come to our facilities," he said.

His agency provided $10 million in community benefits and indigent care last year, he said. "It would be such a shame if we had to close our doors because we don't want to provide these (contraceptive) services."

[Rodriguez-Soto is editor of the Miami archdiocesan edition of the *Florida Catholic*.]

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