

Equating HHS mandate, union health benefits is wrong, says spokesman

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[A New York Times article May 27](#) [1] said the New York archdiocese "has quietly been paying" for birth control coverage for its unionized employees while New York Cardinal Timothy Dolan has been spearheading efforts to fight the federal health care law requiring employers to cover birth control in employee health plans.

The same day, Joseph Zwilling, archdiocesan director of communications, released a statement saying the article "incorrectly equates" the health care benefits of its unionized employees at Catholic facilities with the U.S. Health and Human Services contraceptive mandate.

He said the HHS mandate "improperly attempts to define the church's religious ministry and could force religious employers to violate their conscience." He also said "the Constitution and other provisions of federal law prohibit the government from imposing the mandate on the archdiocese."

Zwilling said a labor union is not subject to the same constraints as the federal government. In the New York archdiocese, health care workers in ArchCare -- also known as the Catholic Health Care System -- belong to the union SEIU United Healthcare Workers. ArchCare operates seven nursing homes and a variety of health facilities and programs for the elderly in New York.

According to Zwilling, the fact that unionized workers receive contraception coverage as part of the union's health insurance plan "does not excuse the government's violation of the archdiocese's federal rights" by imposing the contraceptive mandate.

He said what the union's health plan and the HHS mandate "share is that the archdiocese has objected to the dilemma of choosing between providing health care to employees or violating its sincere religious beliefs in both instances."

Zwilling said ArchCare did not exist at the time the contract with the health care union was finalized and when the archdiocesan health care group was formed, "it inherited this situation and objected to these services being included in the 1199 health plan. However, ArchCare had no other option but to pay into the fund which administers the union members' benefits 'under protest' to continue to offer insurance to its union workers and remain in the health care field in New York."

He pointed out that the archdiocese has "attempted to negotiate with the administration, advocated for a change in legislation in the Congress, and filed a lawsuit last May objecting to the HHS mandate."

Zwilling noted that "in all cases where the health insurance benefit plan is under the control of the archdiocese, including for all nonunion ArchCare employees, contraceptive care services are not provided."

The New York Times story said ArchCare belongs to the League of Voluntary Hospitals and Homes, a

multiemployer organization that negotiates with the union every few years for a joint labor contract. Like other members in the league it does not directly pay for the coverage. Instead, employers contribute to the union's National Benefits Fund, in amounts equal to roughly 25 percent of each employee's base pay; that money is used to pay for the insurance coverage.

Zwilling told *The New York Times* that the late Cardinal John O'Connor of New York and other archdiocesan officials objected to the inclusion of contraceptive services in the National Benefit Fund's health insurance plan when the organization joined the league in the 1990s. But at the time, he said, the cardinal decided "there was no other option if the Catholic Church was to continue to provide health care to these union-affiliated employees in the city of New York."

The article also notes that since 2002, other New York Catholic agencies with standard commercial insurance, such as Fordham University, have been subject to a state mandate to provide contraceptive services.

Zwilling said these state mandates "have made the bishops even more aware of the gravity of the situation and lead to the attempt to remedy the matter on a national level."

In early December a U.S. District Court judge ruled that a lawsuit challenging the HHS contraceptive mandate filed by the archdiocese of New York and two other Catholic entities can move forward.

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[1] http://www.nytimes.com/2013/05/27/nyregion/new-york-archdiocese-reluctantly-paying-for-birth-control.html?pagewanted=all&_r=0