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September 27, 2011

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-9992-IFC2
Room 445-G, Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

Re: Interim Final Rule defining Religious Employer Exception for Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services under the Patient Protection and Affordable Care Act, RIN 0938-AQ07

Dear Sir or Madam:

We are writing on behalf of the Department of Clinical Ethics at Resurrection Health Care to express deep concern about the Interim Final Rule on Preventive Services published in the Federal Register on August 3, 2011 (76 Fed. Reg. 46621). Resurrection Health Care is one of the leading Catholic healthcare ministries in the Chicagoland area, and will soon become the second largest provider of healthcare in Illinois when we merge with Provena Health Care on November 1, 2011. 4.5 million Illinoisans live in the communities served by Resurrection Health Care and Provena Health Care ministries. In 2010, Resurrection Health Care provided more than \$206 million in community benefits to our communities. \$23.3 million of this was in the form of direct charity care. We are the largest inpatient Medicaid provider in the state and serve as a "safety net" to economically challenged communities. We provided more than \$74 million in unpaid cost of care to Medicaid patients during this difficult economy.

While we support ACA's requirement that preventive services, including certain preventive services for women, be provided at no cost to the individual, we are deeply concerned with the approach taken by the Department of Health and Human Services (HHS) in the Health Resources and Services Administration's Guidelines on Women's Preventive Services: Required Health Plan Coverage (HRSA Guidelines) to force insurance companies and plans to subsidize "the full range of FDA-approved contraceptive methods" as "preventative care services for women."

1. Designating contraceptives as "preventative services" does not constitute good clinical medicine. Fertility is not a disease; it is a sign of health. Contraception, when prescribed for contraceptive purposes, is not therapeutic, but aims to impair the functional integrity of a healthy person. An extensive body of evidence shows impairing the functional integrity of the body through hormonal contraceptives poses serious threats to the health of women, including cerebrovascular accidents, myocardial infarction, deep venous thrombosis, venous thromboembolism (VTE),



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pulmonary emboli, and certain forms of cancer. The recent class action lawsuits against Depo-Provera for its cause of osteoporosis, and against Yaz, Yasmin and Ocella oral contraceptives for causing increased risk of death, blood clots and strokes reflect the negative side effects of such drugs. In 2005, the World Health Organization classified the combined estrogen-progesterone oral contraceptive pill as a Group 1 Carcinogen – the highest carcinogenic level for humans. The purpose of medicine is to heal what is pathological, not to harm what is healthy. Mandating that insurance companies cover the elective use of medications and devices that aim at impairing the functional integrity of the healthy body is contrary to the healing end of medicine.

2. Designating drugs and devices that have as primary mechanisms of action the expulsion of the human embryo in the pre-implantation phase as “contraceptive” is misleading. We are all aware of the history of the redefinition of pregnancy in the 1960s that attempted to define away pregnancy in the pre-implantation phase so that IUDs and other abortifacients could be promoted. Regardless of what one thinks about the status of the embryo, the idea that someone can sell abortifacients as if they were contraceptives is deceptive and incompatible with the respect that is due to women as human beings.
3. While we appreciate a nod to religious exemptions for the mandate, the current definition of “religious employer” is so narrow that it only gives the semblance of protection. To qualify, a ministry would have to withdraw from public life. It would imply that Catholic health care institutions would have to employ predominately Catholic physicians, serve predominately Catholic patients, and have the inculcation of our faith as a primary objective. Such requirements not only stand in contradiction to the Gospel-inspired commission to care for all, without discrimination, they also stand in contradiction to common sense. What community would want to lose one of the primary healthcare providers in their area because the government has forced them to discriminate against people who do not share the healthcare providers’ beliefs?


Our nation has long been committed to the free-exercise of religion and has ensured conscience exemptions from mandates concerning abortion, contraception and sterilization. Unfortunately, the mandate, as written, ignores consciences and faiths. It gives a nod to religious protection without giving any real protection.

For these reasons, we ask that the regulation be revoked. At minimum, we urge a modification to embrace and defend the public ministry of religious institutions.

Sincerely,


Bob Bulger
SVP, Mission Effectiveness


Erica Laethem
Director, Clinical Ethics


Amy S. Martin
Director, Clinical Ethics