

Federal Contraceptive Coverage Requirement Emerges as Major Political Issue, Despite Accommodation for Religiously Affiliated Employers

The issue of contraceptive insurance coverage erupted into a political firestorm in early 2012, as the U.S. Department of Health and Human Services (DHHS) moved to finalize a rule requiring insurance plans to cover a package of women's preventive health care services. Despite an accommodation for religiously affiliated employers announced by the President himself on February 10, critics of the requirement to cover contraception as part of the package persisted in accusing the Obama administration of attacking religious freedom.

The DHHS regulations implement a provision of the Affordable Care Act (ACA) that requires new private insurance plans to cover a broad range of preventive health services—from vaccinations to the provision of aspirin to prevent heart disease—without any out-of-pocket costs, such as copayments or deductibles. To fill gaps in preexisting guidelines on preventive care, the ACA called for new recommendations specifically for women's preventive services, which were developed by an expert panel at the Institute of Medicine (IOM) and adopted by DHHS in August 2011.^{1,2} Those guidelines added eight sets of women's services, including "contraceptive counseling and provision of all contraceptive methods approved by the Food and Drug Administration."

The coverage requirements will affect new private health plans starting in August 2012; because most insurance plans are renewed with

the calendar year, January 2013 is the earliest point that large numbers of women will benefit. Existing plans are exempt from the requirement, so long as no significant negative changes, such as benefit reductions or cost-sharing increases, are made to them; DHHS has projected that most plans will lose this grandfathered status within a few years.³

Of all the required preventive services, only contraception has generated significant controversy, despite the fact that government bodies and private-sector experts have long recognized contraceptive services as effective preventive and public health care. Indeed, the IOM recommendation was based on an extensive body of research showing that contraceptive use helps women avoid unintended pregnancy and improve birth spacing, resulting in substantial benefits for the health and well-being of women, infants, families and society.⁴ Research looking specifically at the impact of cost on method choice also indicates that insurance coverage without cost-sharing should help women overcome financial barriers to choosing methods such as the IUD and the implant, which are almost 100% effective for several years at a time, but have high up-front costs.

In response to objections from religious groups and social conservatives opposed to contraception, DHHS proposed a narrow exemption to the contraceptive coverage requirement for religious employers, limited to those that exist for the pur-

pose of inculcating religious values and that primarily employ and serve people who share the employer's religion.² When the agency announced in January 2012 that it would not broaden that exemption,⁵ opponents pounced. Characterizing the requirement as religious discrimination, they called for a broader range of employers to be exempted, including universities, hospitals and social service organizations that are religiously affiliated but that serve and employ the general public.

The accommodation announced in February, after several weeks of escalating controversy, promised a one-year grace period for religiously affiliated employers that do not qualify for the exemption.⁶ By the end of this period, DHHS will issue additional rules for a work-around: A religiously affiliated employer that objects to contraceptive coverage will not be required to pay for it or even discuss the issue with its employees. Instead, the insurance company it works with will have to provide coverage without cost-sharing, at no additional cost to the enrollee, and to notify enrollees that they and their dependents are covered. The administration has promised to work with religious employers to hash out the details, including how to adapt this accommodation to employers that self-insure. In support of its position, DHHS released an analysis of actuarial and research evidence indicating that including full coverage of contraception should not raise insurance costs.⁷

President Obama's announcement satisfied his more moderate critics, including the Catholic Health Association, which represents Catholic hospitals and has been a key supporter of the ACA. Yet, the bishops and other antiabortion and self-styled "profamily" groups that oppose the ACA have pressed on and even upped the ante, demanding exemptions not only for religiously affiliated institutions opposed to contraception but for any private-sector employer that asserts a religious or moral objection to any health service. Anything less, they say, is evidence that the Obama administration is waging a "war on religion." Reproductive health groups, meanwhile, cite opposition to the contraceptive coverage mandate as evidence of conservatives' attacks on

women's health and rights, and as ignoring the moral and religious beliefs of individual women and couples, almost all of whom, regardless of religious affiliation, make use of contraception at some point in their lives.⁸—*Adam Sonfield*

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