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September 29, 2011

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attn: CMS-9992-IFC2  
PO Box 8010  
Baltimore, Maryland 21244-8010

Re: Interim Final Rule on Preventive Services. File Code CMS-9992-IFC2.

Dear Sir or Madam:

I am writing on behalf of the 16,000 members of the Christian Medical Association, a professional membership organization that helps healthcare professionals to integrate their faith and profession and to care for patients according to longstanding ethical and moral principles.

We offer comments on the amendments to the interim final regulations (76 Fed. Reg. 46621 (Aug. 3, 2011)) regarding mandatory coverage nationwide of certain preventive health services under provisions of the Patient Protection and Affordable Care Act.

Key components of the mandate that especially impact faith-based health care include the following:

- The new rule would force insurance plans to cover “*all Food and Drug Administration approved contraceptive methods, sterilization procedures, and patient education and counseling for all women with reproductive capacity.*”
- The Amended Regulations only consider for *potential* exemption a “religious employer” to be 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 non-profit organization under section 6033(a)(1) and section 6033(a)(3)(A)(i) or (iii) of the [Internal Revenue Code].” Conscientiously objecting individuals and religiously affiliated health insurers are not exempted.
- The new rule does not exempt drugs that according to the FDA have post-fertilization effects that “may inhibit implantation” of a living human embryo--an issue of weighty moral concern for many faith-based health care professionals, individuals and groups.

The administration should rescind this mandate entirely, for the following reasons:

1. Pregnancy is not a disease to be prevented; therefore, mandating contraceptives has no place in preventive disease policies.
2. The federal mandate imposes a radical ideological stance--unprecedented in and inconsistent with federal law--regarding conscience, contraception and abortion, on the vast majority of states that have taken a far less coercive and far more balanced approach.
3. The mandate violates the Constitution, federal law and the administration's stated policies:
  - a. The mandate violates the religion and free speech clauses of the First Amendment of the Constitution, by coercing faith-based health care ministries to not only violate the very faith-based tenets that have motivated patient care for millennia, but also to *pay for* that violation.
  - b. The mandate violates the Weldon amendment, passed every year by Congress since 2004.
  - c. The mandate violates the abortion and non-preemption provisions of the Patient Protection and Affordable Care Act (PPACA).
  - d. The mandate violates the Administration's own public assurances that PPACA would not be construed to require coverage of abortion; it also violates the related presidential Executive Order to secure passage of the Act.
4. The *potential* "religious exemption" is meaningless:
  - a. The preamble to the Amended Regulations offers no actual exemption but merely allows "additional discretion" to exempt a nano-sector of "religious employers" from the guidelines regarding contraception.
  - b. The potential exemption provides no protection to conscientiously objecting individuals or insurers.
  - c. The narrow potential exemption is far more restrictive than any other genuine religious exemption in federal health care law.
  - d. HHS is not constitutionally empowered--especially absent a compelling state interest--to simply make up its own definition of religious ministry.
5. Such conscience-violating mandates will ultimately reduce patients' access to faith-based medical care, especially depriving the poor and medically underserved populations of such care. A national survey (available at [www.Freedom2Care.org](http://www.Freedom2Care.org)) of over 2,100 faith-based physicians revealed that over nine of ten are prepared to leave medicine if pressured to compromise their ethical and moral commitments.

Thank you for your consideration of these views.

Sincerely,

A handwritten signature in blue ink that reads "David Stevens MD".

David Stevens, MD, MA (Ethics)  
CEO