

American Association of Christian Schools

Educating for Eternity



On behalf of the American Association of Christian Schools, representing more than 100,000 students and teachers across the nation, we submit the following comments in response to the Department of Health and Human Services. On March 21, 2012, the Department of Health and Human Services (HHS) issued an Advanced Notice of Proposed Rulemaking (ANPRM), "Certain Preventive Services Under the Affordable Care Act" requesting public comments on the purported "accommodation" related to the final rule, "Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services Under the Patient Protection and Affordable Care Act," published February 15, 2012, implementing section 1001 of the "Patient Protection and Affordable Care Act" (P.L. 111-148) (PPACA).

The AACCS strongly urges the department to rescind the "contraceptive mandate" in private health insurance with no co-pay to patients. The proposed accounting schemes in the ANPRM would do nothing to prevent the costs from being shifted to a religious employer and the employees' premiums. Even if the eventual costs of these drugs are minimal, we believe that the mandate violates the religious freedom of those religious organizations that are not exempt. The ANPRM does nothing to expand religious freedom for those religious employers that object to purchasing health insurance that includes abortifacients, contraceptives, and sterilizations. Further, the mandate does not protect individuals or businesses that have moral objections. Such individuals and businesses should not be forced to subsidize health insurance under the proposed accounting scheme in the ANPRM which guarantees that the insurer of their health plan will still be providing free drugs and services to their employees. We are opposed to the contraception mandate, because some of these drugs can cause an abortion (such as ella and Plan B). The conscience rights of religious people who oppose these drugs should be protected, not violated.

The unprecedented and narrow definition of a religious employer in the mandate is especially problematic, and this is not addressed in the ANPRM. Although the definition of a religious employer is purportedly not intended to set a precedent, it is highly improbable that the definition will not be cited in future rulemaking once it is included in the Federal Register. The definition also creates a bifurcated classification system (religious employers and non-exempt religious organizations) that recognizes churches as the only group sufficiently religious to qualify for an exemption. Faith-based organizations, educational institutions, and social service programs provided by religious groups and people of faith are natural extensions of their moral and doctrinal beliefs. The distinction set forth in this rule unduly burdens religious employers and forces them away from providing beneficial services in the public square. The ANPRM does nothing to fix this problem.

Finally, the mandated coverage will be provided "automatically" to employees and their dependents, including minors, whether or not the employees want the coverage. Employers will have no right to act on their values when they provide health coverage. Employees and those who provide or purchase health insurance outside the employer context will have no freedom to opt out. We also oppose the ANPRM automatic enrollment of employees and the privacy rules for minors that would trump the decisions of parents in the health care of their children! This ANPRM not only violates religious liberties, it violates parental rights.

The Administration's ANPRM does not correct the fundamental problems in its contraceptive mandate. Please rescind the contraception mandate or expand the religious exemption to all employers and individuals with moral or religious objections to the mandate. We urge you to allow all organizations and individuals to offer, sponsor, and obtain health coverage that does not violate their moral and religious convictions.

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