



A Passionate Voice for Compassionate Care

April 3, 2023

Ms. Chiquita Brooks-LaSure, Administrator
Department of Health and Human Services
Centers for Medicare & Medicaid Services
Room 445-G Herbert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

Attention: CMS-9903-P

**RE: Coverage of Certain Preventive Services Under the Affordable Care Act:
Proposed Rule, 88 Fed. Reg. 7236, February 2, 2023**

Dear Administrator Brooks-LaSure:

I am writing on behalf of the Catholic Health Association of the United States (CHA), the national leadership organization of more than 2,200 Catholic health care systems, hospitals, long-term care facilities, sponsors, and related organizations. Our ministry is represented in all 50 states and the District of Columbia, with one in every seven patients in the United States cared for in a Catholic hospital each year. CHA appreciates the opportunity to comment on the Department of Health and Human Services' (the Department) proposal to amend the regulations regarding coverage of certain preventive services under the Affordable Care Act (ACA).

The ACA requires group health plans and health insurance issuers to provide coverage for a range of preventive care services without cost sharing by the covered beneficiary, including a subset of women's preventive care services as set forth in guidelines by the Health Resources and Services Administration (HRSA). The HRSA guidelines require coverage without cost sharing of all Food and Drug Administration approved contraceptive methods, sterilization procedures and patient education and counseling for women of reproductive age. Whether and how to exempt, or accommodate the concerns of, employers with religious-based objections to providing contraceptives, including those with abortifacient effect, has been the subject of multiple rulemakings and on-going litigation. For the history of these proceedings we refer to the proposed rule's preamble which includes a thorough recounting of the regulatory and litigation history.

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The current regulation, finalized in November 2018, provides broad exemptions to the HRSA contraceptive guidelines for any employer, whether non-profit or for-profit, with religious or moral objections to the inclusion of contraceptive coverage in the health insurance they offer to their employees. These exemptions allow objecting employers to exclude contraceptive coverage from their health plans.

The November 2018 final rule also left in place as a voluntary option what is known as the accommodation, created in previous rulemaking for religious-based non-profit organizations not covered by what had been a very narrow religious employer exemption. The accommodation allows these organizations to avoid providing, contracting, paying or referring for contraceptive coverage by self-certifying to the insurer their objection to contraception. This step removes the organization from the process of providing contraception. The health insurance issuer (or third-party administrator, in the case of a self-insured plan) assumes responsibility for offering and providing contraceptive coverage to the organization's plan beneficiaries with no further involvement of the objecting organization.

The current, broader exemption established in the November 2018 final rule was created to address the concerns of a few organizations that considered the self-certification step itself to constitute participation in providing contraception. The November 2018 rule also allowed all for-profit organizations to claim an exemption or the accommodation and created a parallel exemption/accommodation structure for organizations with moral objections to providing contraceptive coverage.

The Department now proposes to amend the regulation in a manner that would retain both the expanded exemption and the voluntary accommodation for religious organizations. **CHA strongly supports this proposal.** The accommodation has adequately addressed the faith concerns of and proven workable for many religious-based employers including CHA and many of our members, who are able to provide insurance coverage to their employees without providing, contracting, paying or referring for contraceptive coverage. Entities that so choose should be able to maintain a status quo they find acceptable.

CHA also appreciates the Department's acknowledgement that the accommodation did not fully address the religious objections of other organizations. Leaving the expanded exemption in place along with the accommodation ensures that all religious-based organizations will be able to provide health insurance coverage in a manner consistent with their religious principles.

Our faith teaches us that access to health care is a basic human right flowing from the sanctity of human life and the dignity that belongs to each person, created in the image and likeness of God. Whether they choose the accommodation or the exemption, the proposed rule will allow religious organizations to meet this obligation of their faith without having to violate another.

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Thank you for considering our comments. If you should have any questions about these comments or would like additional information, please do not hesitate to contact Kathy Curran, Senior Director, Public Policy, at 202-296-3993.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa Atchison Smith". The signature is fluid and cursive, with the first name "Lisa" being the most prominent.

Lisa Atchison Smith
Vice President
Public Policy and Advocacy