

TO: The Honorable Kathleen Sebelius, Secretary  
US Department of Health and Human Services

FROM: 14 organizations and communities of faith

RE: Public Comments concerning CMS-9992-IFC2

DATE: September 30, 2011

Dear Secretary Sebelius,

We, the undersigned faith-based or faith-centered communities and organizations dedicated to promoting and protecting sexual and reproductive health and rights, write to commend you for your decision to adopt the recommendations from the Institute of Medicine (IOM) regarding coverage of women's preventive health services. As the IOM said when announcing its recommendations, "Positioning preventive care as the foundation of the U.S. health care system is critical to ensuring Americans' health and well-being. Women particularly stand to benefit from additional preventive health services." We couldn't agree more, and thank you for taking this important step forward for women's health.

Our organizations and communities represent millions of people of faith, for whom ensuring access to these critical services is a moral imperative. We are encouraged by the expanded access to health care that will come with the preventive care requirement, and we urge you not to limit some women's access to affordable birth control at the same time it is expanded for other women. Health care is of critical importance to women across the U.S., who have been fighting for decades for accessible, affordable health care and contraception. What follows are our views on why we, as members of diverse faith traditions, are deeply troubled by the Interim Final Regulation's "religious exemption" amendment pertaining to contraceptive coverage and believe it should be rescinded.

As people of faith, we are committed to women's moral agency and religious liberty. The proposed religious exemption would restrict these rights, excluding many women from preventive health services based on an erroneous idea of "conscience" protection. As proposed, the regulations seek to impose a refusal clause exempting some employers from having to follow the needed increase in coverage for contraceptive services and supplies. It would allow religious institutions that offer insurance to their employees to refuse to cover contraception services, which we believe renders the preventive care regulation fundamentally flawed.

Deference to the conscience of others is fundamental to religious freedom; however, claims that a refusal clause can balance freedom of conscience for the employer and the patient are not defensible. The refusal clause proposed does not protect freedom of conscience for the employee seeking affordable access to the full range of FDA-approved contraception services or supplies, limiting every woman's right to make decisions about her own health care guided by her own conscience, personal circumstances and faith tradition. Women and men seeking legal reproductive healthcare services at an affordable cost will be routinely denied access, or be subject to continued financial barriers to care.

In addition to respecting women's moral agency and safeguarding religious liberty for individuals, we are committed to equal rights to health care and the obligation to protect every woman's health. We believe that all women, regardless of income, should have access to medically accurate health education and services that help them stay healthy, prevent and treat HIV and other sexually transmitted diseases and avoid unintended pregnancy. When it comes to their own health care, women face a unique set of challenges because they use more health services than men<sup>i</sup> yet earn less on average than men.<sup>ii</sup> As a result, women experience a high level of health care insecurity which leads many women to forgo necessary care because of prohibitive cost-sharing. A recent study by the Kaiser Family Foundation found that one in seven (14 percent) of women with private health insurance and

nearly one-third (31 percent) of women covered by Medicaid either postponed or went without needed services in the past year because they could not afford them.<sup>iii</sup> Allowing some employers to opt out of fully covering contraceptive services, without patient cost-sharing or co-pay, would preserve an unacceptable, unjust status quo where many women lack access to critical preventive health care services due to cost.

**We respectfully urge the administration to entirely remove the proposed “religious refusal” exemption.** Proponents of the restriction are attempting to limit women’s access to health care and impede women’s moral agency and personal religious freedoms. Backed primarily by a few conservative religious leaders and their allies, this exemption would deny individual women their rights, in favor of institutional doctrine. Female employees who work for churches, synagogues and other religious institutions, including administrative employees and faculty in religion-based schools, may not agree with the views of their faith-based employer when it comes to contraceptive use—these women’s rights would be unjustly subjugated by the exemption clause. These employees will have to pay out of pocket for contraceptive services and supplies that others will be able to access at no extra cost

In addition, the cost of inaccessible contraception extends far beyond the direct impact the restriction would have on employees; a denial of service would also impact their spouses and dependents. While we, as faith-based and faith-centered organizations and communities, are committed to the rights of religious institutions to preserve their identity, so too are we committed to every women’s individual right to make health care decisions in keeping with her own religious beliefs, moral values and with consideration for her personal health and the needs of her family.

Our organizations and communities of faith are committed to the belief that all women and men, regardless of income or employer, should be able to access affordable contraception. **We urge HHS not to leave some individuals out of the Affordable Care Act’s promise guaranteeing equitable access to all for the health care they need.** We ask you—for each and every woman, her family, her colleagues, and the many others who are relying on these new regulations—to ensure contraceptive coverage for all. We urge you to adopt this rule without the “religious refusal” exemption so that *all* insured women can fully benefit from the coverage of preventive services, including contraception.

Sincerely,

Anti-Defamation League

Concerned Clergy for Choice

Catholics for Choice

Hindu American Foundation

Jewish Reconstructionist Federation

Jewish Women International

Methodist Federation for Social Action

National Council of Jewish Women

Religious Coalition for Reproductive Choice

Religious Institute

United Church of Christ, Justice and Witness Ministries

United Methodist Church - General Board of Church and Society

Women's Alliance for Theology, Ethics and Ritual

Women's League for Conservative Judaism

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<sup>i</sup> National Women's Health Center and The Commonwealth Fund. (April 2007). *Women and Health Coverage: The Affordability Gap*. Retrieved August 23, 2011 from [www.nwlc.org/sites/default/files/pdfs/WomenandHealthReform.pdf](http://www.nwlc.org/sites/default/files/pdfs/WomenandHealthReform.pdf).

<sup>ii</sup> U.S. Census Bureau. (2009). *Income, Poverty, and Health Insurance Coverage in the United States: 2008, Table A-2*. Retrieved August 22, 2011, from [www.census.gov/prod/2009pubs/p60-236.pdf](http://www.census.gov/prod/2009pubs/p60-236.pdf).

<sup>iii</sup> Kaiser Family Foundation. (May 2011). *Women's Health Care Chartbook*. Retrieved August 22, 2011, from [www.kff.org/womenshealth/upload/8164.pdf](http://www.kff.org/womenshealth/upload/8164.pdf)