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Bishops say Obama compromise is 'unconstitutional'

by David Gibson by Religion News Service

The nation's Catholic bishops say the Obama administration's proposed revisions to a mandate that requires insurers to provide birth control coverage are still unacceptable and even "radically flawed" -- signaling a long drawn-out election-year fight between the White House and the Catholic hierarchy.

The bishops also say that they will continue to try to overturn the contraception regulations in Congress and the courts even as the bishops carry on negotiations with the White House.

The critical judgments on the government proposals, which were published by the U.S. Department for Health and Human Services on March 16, are contained in an internal, two-page March 29 memo from the U.S. Conference of Catholic Bishops. The memo's contents were first reported Tuesday (April 3) by Catholic News Service.

The HHS proposals, which invited feedback during a 90-day review period, are an effort to expand the number of faith-based groups that can be exempt from the controversial contraception mandate. Hoping to reach a compromise with the bishops, HHS is proposing that third-party companies administer coverage for self-insured faith-based groups.

The proposals would also allow religious groups -- dioceses, denominations and others -- to decide which affiliated institutions are "religious" and therefore exempt from the new requirement that employers offer free contraception coverage as part of employee insurance plans.

The March 29 memo from the bishops conference says the mandate's definition of what constitutes an exempt religious organization is still too narrow and remains "radically flawed" and "unconstitutional."

The memo also asserts that even though the Obama plan would have insurers or third-parties pay for the birth control coverage - thereby avoiding any involvement by the faith-based employer - the mandate

"still forces us to act against our conscience and our teaching."

But the memo also notes that the 32-page HHS proposal is "both tentative and complex," and will require further study by the bishops and their staff.

"While USCCB representatives will continue to meet with representatives of the Administration to discuss these new proposals," the memo concludes, "it must also be very clear that the church, together with other religious groups and faith-based entities, will simultaneously continue to seek relief from the legislature and redress in the courts."

It appears that legislative action by the bishops' Republican allies in Congress have stalled. The bishops have some hope that if the U.S. Supreme Court overturns Obama's health care reform law -- which provides the legal underpinning for the birth control mandate -- then the entire issue will be moot.

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