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New contraception exemptions still fall short, bishops say

by Brian Roewe

The latest exemptions from the mandate requiring contraception be included in health plans still fall short, U.S. bishops say.

In a statement released Thursday, the bishops raised concerns with three areas: the definition of a religious ministry, which remains too narrow; the possibility church ministries could fund and facilitate services against church teaching; and the exclusion of for-profit business owners from exemptions.

"Throughout the past year, we have been assured by the Administration that we will not have to refer, pay for, or negotiate for the mandated coverage," said Cardinal Timothy Dolan of New York, president of the U.S. bishops' conference, in an adjoining statement.

"We remain eager for the Administration to fulfill that pledge and to find acceptable solutions -- we will affirm any genuine progress that is made, and we will redouble our efforts to overcome obstacles or setbacks," Dolan said.

On Feb. 1, the Obama administration released its latest exemptions from a provision of the Department of Health and Human Services requiring contraception included as part of the Affordable Care Act.

Using feedback from a proposal issued in March 2012, the revised policy would broaden the definition of a religious employer exempt from coverage to churches, houses of worship and other organizations that file as "religious employers" with the Internal Revenue Service.

In addition, nonprofit religious organizations would not have to contract, arrange, pay or refer for any contraception coverage they object to on religious grounds. Employees opting for coverage would be covered through separate individual insurance policies at no additional cost.

The bishops raised issue with the distinction between religious employers and nonprofit religious organizations, pointing to a difference between exemption and accommodation.

"The Administration's proposal maintains its inaccurate distinction among religious ministries. It appears to offer second-class status to our first-class institutions in Catholic health care, Catholic education, and Catholic charities," Dolan said.

"HHS offers what it calls an 'accommodation,' rather than accepting the fact that these ministries are integral to our Church and worthy of the same exemption as our Catholic churches," he said.

The cardinal said the bishops reviewed the latest exemptions through *United for Religious Freedom*, a document they agreed upon in June in which they outlined the problematic aspects of past contraception exemptions.

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That employees at "accommodated" ministries could not opt out themselves or their children from contraceptive coverage remained an issue, Dolan said, as well as the possibility such organizations could still pay for the coverage.

"In part because of gaps in the proposed regulations, it is still unclear how directly these separate policies would be funded by objecting ministries, and what precise role those ministries would have in arranging for these separate policies," he said.

That for-profit businesses remained outside exemptions or accommodations created a "third class," Dolan said. "Friday's action confirms that HHS has no intention to provide any exemption or accommodation at all to this 'third class.' In obedience to our Judeo-Christian heritage, we have consistently taught our people to live their lives during the week to reflect the same beliefs that they proclaim on the Sabbath.

"We cannot now abandon them to be forced to violate their morally well-informed consciences," he said.

Dolan stated the bishops intended to use the commenting period, which remains open through April 8, to bring their concerns to the Obama administration and Health and Human Services, "and we will do so in the hope that an acceptable solution can be found that respects the consciences of all."

At the same time, he indicated that the bishops will continue pursuing a judicial ruling through lawsuits against the HHS mandate.

"We will continue to stand united with brother bishops, religious institutions, and individual citizens who seek redress in the courts for as long as this is necessary," Dolan said.

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