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Judge dismisses HHS lawsuit brought by dioceses, charitable agencies

by Catholic News Service

Chicago — A U.S. District Court judge Feb. 8 dismissed a lawsuit filed against the federal contraceptive mandate by the Springfield and Joliet dioceses, their respective Catholic Charities agencies and Catholic Charities of the Archdiocese of Chicago.

Judge John Darrah of the U.S. District Court for the Northern District of Illinois in Chicago said in his ruling the claims of the plaintiffs "are unripe for adjudication."

Named in the suit are the U.S. Department of Health and Human Services and HHS Secretary Kathleen Sebelius; the U.S. Department of Labor and Labor Secretary Hilda Solis, who has since resigned; and the U.S. Department of the Treasury and Treasury Secretary Timothy Geithner, who also has since resigned.

The dioceses and Catholic Charities agencies argued that the federal regulations requiring all employers, including most religious employers, to cover contraception, sterilization and abortion-inducing drugs in their employee health plans violate their religious freedom as guaranteed by the First Amendment of the U.S. Constitution.

Until the final rules on the mandate are implemented, the Obama administration has in place a "safe harbor" period that protects employers from immediate government action against them if they fail to comply with the mandate.

But the dioceses and agencies said in the lawsuit they would need time to "begin taking compliance measures now" to prepare for when the safe harbor period ends.

Darrah ruled that "the necessity to postpone judicial review of plaintiffs' claims until the departments have

finalized the amended regulations outweighs the purported hardship to plaintiffs in their ability to plan for contingencies."

When the proposed rules on the mandate were first released, they were issued with a narrow exemption for religious employers.

On Feb. 1, the HHS issued new proposed rules that aim to redefine the criteria by which nonprofit religious institutions may be either "exempt" or "accommodated" in opting out of providing coverage that goes against the teachings of the faith.

The president of the U.S. Conference of Catholic Bishops and other church leaders said the new proposal shows movement but falls short of addressing their concerns.

The Springfield and Joliet dioceses and their Catholic Charities agencies filed suit last May. Catholic Charities of the Archdiocese of Chicago joined the lawsuit July 9.

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In early January, a separate lawsuit filed by the Peoria Diocese was dismissed by a federal judge who said the diocese's effort to block enforcement of the mandate was "premature."

"If its concerns are not resolved to its satisfaction through the amendment process, the diocese will have the opportunity to challenge the amended regulations when the alleged harm is not contingent on future events and is less speculative," said Chief Judge James Shadid of the U.S. District Court for the Central District of Illinois in Peoria.

"The court therefore finds that as the government is in the process of amending the preventive service regulations, those regulations are not fit for judicial review at this time," the judge wrote in his seven-page order Jan. 6.

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