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Catholic Health Association claims HHS victory as bishops continue contraception fight

by Joshua J. McElwee

As the U.S. Catholic bishops ramp up to again fight an Obama administration mandate regarding coverage of contraceptive services in health care plans, the leaders of the church's national health care apparatus have announced they will lay down arms.

The Catholic Health Association (CHA), which describes itself as the largest group of nonprofit health care providers in the nation, said it sees its part in the fight, which began a year and a half ago over concerns that the mandate didn't offer protections for those opposed to contraception, as basically finished.

The administration "has now established an accommodation that will allow our ministries to continue offering health insurance plans for their employees as they have always done," Charity Sr. Carol Keehan, the association's president, said in a memorandum to the group's members Monday.

"We are pleased that our members now have an accommodation that will not require them to contract, provide, pay or refer for contraceptive coverage," Keehan continued.

The Catholic Health Association comprises more than 600 hospitals and 1,400 long-term care and other health facilities in all 50 states and the District of Columbia.

The Department of Health and Human Services first issued the mandate, which the Obama administration has amended several times, in January 2012 as part of the implementation of the health care reform law.

The administration announced its final version of the mandate June 28. The U.S. bishops were initially cautious in responding to that version, saying in a statement they were first going to undertake a "careful analysis" of the 82-page document. The next week, their president, New York Cardinal Timothy Dolan,

pledged the bishops would continue fighting the measure.

The bishops, Dolan said in a July 3 statement, had not yet "discovered any new change that eliminates the need to continue defending our rights in Congress and the courts."

According to the latest version of the mandate, any organization that self-certifies as a nonprofit religious group with religious objections to contraceptive coverage could defer coverage of contraceptives to a separate health insurance issuer.

The final adjustment also moved the start date for the mandate from Aug. 1 to Jan. 1.

In his release, Dolan listed three areas of concern the bishops have with the mandate, including whether for-profit businesses with Catholic owners would be exempt.

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Members of CHA "recognize that this resolution has not been what some organizations, including the Bishops' Conference, asked for on behalf of a wider group," Keehan wrote in her memo Monday.

"Our contribution to the process has been to work for the protection of religious organizations, especially our members," she continued. "We recognize the broader issues will continue to be debated and litigated by others."

Along with Keehan's memo, association members also received a four-page overview of the administration's latest ruling on the mandate. That overview lists four ways in which the administration addressed religious liberty concerns and answers seven sample questions its members might have about the rules.

The four ways the association says the administration addressed concerns:

- Simplifying the definition of a "religious employer" to align with the IRS tax code;
- Establishing a set of accommodations for nonprofits that do not strictly qualify as religious organizations;
- Extending the timeframe of implementation; and,
- Requiring insurers to separate money collected from eligible organizations to ensure their funds will not be used to pay for contraceptive services.

In its sample questions and answers regarding the final rules, the association said the administration failed to offer accommodation for for-profit entities that object to contraceptive coverage.

"We had requested the Departments to permit all entities (including those that are for-profit) ... to be covered by the accommodation," the association said. "Our request was acknowledged in the preamble to the final rules, but the Departments determined that they would not extend the accommodation to such for-profit entities."

The bishops have attracted a range of groups outside their norm as partners in their continued fight against the measure, with one key prelate announcing July 2 in Washington that he had aligned with 57 other religious leaders, including Southern Baptists, the Church of Jesus Christ of Latter-day Saints, and the International Society for Krishna Consciousness.

Baltimore Archbishop William Lori, chairman of the U.S. Conference of Catholic Bishops' Ad Hoc Committee for Religious Liberty, was among the leaders decrying the administration's latest adjustment.

"The HHS policy is coercive and puts the administration in the position of defining -- or casting aside -- religious doctrine," the letter said. "This should trouble every American."

One key organization has yet to comment on the substance of the final ruling: the Association of Catholic Colleges and Universities, made up of some 215 Catholic institutions of higher education nationally.

That association is "still reviewing the language of the final ruling and conferring with others," its director of communications, Paula Moore, wrote in an email Tuesday.

[Joshua J. McElwee is *NCR* national correspondent. His email address is jmcelwee@ncronline.org. Follow him on Twitter: @joshjmac.]

Final statement from Sr. Carol Keehan of the Catholic Health Association:

From: Sr. Carol Keehan, DC
Sent: Monday, July 08, 2013
Subject: Women's Preventive Health Services Final Rule

Attached is an overview of the final rules governing the HHS contraception mandate. The document issued on June 28, 2013, is 110 pages. The first 82 pages are responses to the comments received during the official comment period.

Since the original rule was issued over a year ago, there has been considerable concern raised by many parties including CHA. CHA had two principal concerns. The first was the four-part definition of what constituted a "religious employer." That concern has been eliminated. CHA's second concern was establishing a federal precedent that mandated our members would have to include in their health plans, services they had well-established moral objections to.

HHS has now established an accommodation that will allow our ministries to continue offering health insurance plans for their employees as they have always done.

We have prepared this explanation for members to help them understand the accommodation and how to implement it. Throughout this process, CHA has been in dialogue with the leadership of the Bishops' Conference, the Administration and HHS. We are pleased that our members now have an accommodation that will not require them to contract, provide, pay or refer for contraceptive coverage.

We also recognize that this resolution has not been what some organizations, including the Bishops' Conference, asked for on behalf of a wider group. Our contribution to the process has been to work for the protection of religious organizations, especially our members. We recognize the broader issues will continue to be debated and litigated by others.

CHA is grateful for the respect and concern demonstrated by all parties in this dialogue. We will work with our members to implement this accommodation.

Summary of Final Rule for CHA members by National Catholic Reporter

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