



Representing Secular Americans In Our Nation's Capital

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June 19, 2012

Submitted Electronically

RE: Comments on Advanced Notice of Proposed Rulemaking on "Certain Preventive Services Under the Affordable Care Act"
RIN 0938-AR42

The Honorable Kathleen Sebelius, Secretary, Department of Health and Human Services
Mr. Steven Miller, Deputy Commissioner for Services and Enforcement, Internal Revenue Service
Phyllis C. Borzi, Assistant Secretary, Employee Benefits Security Administration, Department of Labor
Marilyn Tavenner, Acting Administrator, Centers for Medicare and Medicaid Services

Madame Secretary and agency officials:

The Secular Coalition for America, in conjunction with the organizations listed below, thank you for the opportunity to submit comments on the advanced notice of proposed rulemaking for Certain Preventive Services Under the Affordable Care Act.

The Secular Coalition again would underscore our desire that the Health Resources and Services Administration guidelines include contraceptive services for women without any religious exemption for any and all group health plans and employers. However, the final rule published on February 15, 2012 maintained only a narrow exemption for religious employers with direct religious activities as their function and the Secular Coalition supports this narrow accommodation. The current religious employer exemption adequately accommodates religion; any expansion becomes endorsement.

We are concerned that the current comment period and any subsequent expansion of the religious employer exemption will only serve to further expand the definition of a "religious employer" as defined by the rule. Congress has passed and the Supreme Court has upheld Free Exercise protections for explicitly religious organizations. The final regulations published in February demonstrate a concerted effort by the Administration and the Department of Health and Human Services (HHS) to abide by those precedents and limit the scope of any exemption in the Affordable Care Act. As such, the Secular Coalition supports the existing rule with the following comments:

1. We would continue to ask that HHS and the other affected agencies maintain the definition of "religious employer" established in the February 15,

2012 final regulations. The Secular Coalition disagrees with any religious employer receiving privileged treatment and believes this definition further erodes our nation's secular character. However, HHS has stated that the definition will *only apply* to this regulation, and the Secular Coalition strongly urges HHS to adhere to that policy.

2. Much has been made about the religious freedom implications of this rule. The Secular Coalition believes that a female employee should have the freedom to make her own healthcare decisions irrespective of her place of employment. The contraception coverage requirement is intended to serve the compelling public health and gender equity goals of the Affordable Care Act and is in no way targeted at religion or religious practices.
3. Rights of conscience apply to individuals, not organizations or employing entities. As such, the Secular Coalition asks that the rights of conscience of an individual employee to make her own decision about healthcare coverage be protected.
4. The Secular Coalition strongly objects to the concept of providing coverage for a limited number of the total of FDA-approved contraceptives. Restricting access to certain types of contraceptives to appease certain religious beliefs is unacceptable and a direct threat to individual liberty. Contraceptives have demonstrated numerous medical benefits to women, including reduced instances of ovarian cancer, endometriosis, ovarian cysts, and iron deficiency anemia. Additionally, employers benefit from significant cost savings by employee contraceptive use. A 2000 study estimated that it would cost employers 15 to 17 percent more NOT to provide contraceptive coverage once the direct medical costs of pregnancy and indirect costs of employee absence and reduced productivity are considered.¹

Once again, the Secular Coalition for America and the listed groups appreciate the opportunity to comment on the advanced notice of proposed rulemaking for Certain Preventive Services under the Affordable Care Act. The Secular Coalition supports equal treatment of all organizations, religious and secular, under law. Religious employers should not enjoy special privileges or be permitted to deny employees benefits given to employees of secular employers.

For questions or comments, please contact Chris Lombardi at chris@secular.org or (202) 299-1091.

Respectfully Submitted,

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HUUmanists Association
Institute for Humanist Studies
Military Association of Atheists and
Freethinkers
National Council of Jewish Women
Secular Student Alliance
Society for Humanistic Judaism

¹ Bonoan, R + Gonen, JS, "Promoting Healthy Pregnancies: Counseling and Contraception as the First Step", Washington Business Group on Health, Family Health in Brief, Issue No. 3. August 2000