

December 5, 2017

**For Submission Electronically**

The Honorable Seema Verma  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-9925-IFC, Mail Stop C4-26-05  
7500 Security Boulevard  
Baltimore, MD 21244-1850

**RE: Comment in Response to “Moral Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act; Proposed Rulemaking”**

Dear Administrator Verma:

We, the undersigned members of the Coalition for Liberty & Justice, strongly oppose the Religious Exemptions and Accommodations for Coverage of Certain Preventive Services, an interim final rule published in the Federal Register on October 13, 2017, at 82 Fed. Reg. 47838 *et seq.* (IFR). These rules broadly expand the exemption to the Affordable Care Act’s contraceptive coverage requirement to allow any employer, public or private, religious or secular, large or small, to deny coverage for contraceptives based on any religious or moral objections. While the Department of Health and Human Services (the Department) professes its intent to protect religious liberty, in issuing the IFR, it is in danger of enacting regulations that do exactly the opposite. The expanded exemption prioritizes objections by employers, administrators and insurers over the religious liberty rights and health care needs of individual workers and their dependents.

The Coalition for Liberty & Justice represents a diverse cross-section of communities, including faith-based and secular organizations, that are dedicated to furthering women’s rights, LGBTQ rights, the separation of church and state, civil rights and reproductive health, rights and justice. Though we bring distinct and diverse perspectives to these comments, we are united in our belief that public policies should both respect religious liberty and protect against the use of religious beliefs to discriminate or undermine equality. We believe that true religious liberty respects individuals, supports the common good and reflects the foundational principles of our nation.

As organizations dedicated to those principles, we oppose the IFR, which dramatically broadens exemptions for corporations, organizations and other entities at the expense of individual conscience. We support the right of all workers and their dependents to access contraceptive coverage and to make personal decisions about using contraception based on their own beliefs. These rules sabotage the autonomy, conscience, well-being and health of women and their families. For the sake of religious liberty and public health, we call upon you to rescind them.

We are a pluralistic coalition and we live in a pluralistic society. The beauty of true religious liberty, a reflection of our democratic ideals, is that it protects freedom of religion and freedom from religion. It does not allow either principle to trample upon the other. It protects each individual’s liberty, but it does not grant permission for others to usurp another’s liberty for their own. When employers demand concessions from the government to use religion as a means to discriminate against their employees, that constitutes a violation of the freedom from religious fiat guaranteed by the US Constitution. Indeed, a critical function of the federal government is to prevent such discrimination and ensure that all individuals are treated equally before the law, including in their religious liberty rights.

Protecting individual conscience is essential in that regard, especially the right to make the most personal, intimate decisions based on that conscience, such as when and whether to have children. It is unconscionable that any organization be permitted to abuse the notion of religious freedom by privileging their business interests over the consciences of their employees. Allowing businesses, corporations, universities and essentially any public entity that claims a religious or moral objection—large or small, public or private, religious or secular—to deny women the care they need to plan their families and their futures is a mistake. The IFR will prioritize corporations over individuals, disregard individual conscience and further set back religious freedom.

Such a misrepresentation of conscience is not protecting religious liberty. Rather, it represents government sanctioning of discrimination. True religious freedom provides an individual the space to exercise their beliefs as they see fit, as well as to act on those beliefs without coercion or undue influence by powerful institutions. It does not allow one to harm another or impose one set of views on another. Nor should that harm be facilitated by federal regulation.

Inherent in that protection is a call to ensure people have access to plan their families with low-cost contraception. If these unjust rules are allowed to stand, it is everyday working women who will bear the brunt—the nurse at a Catholic hospital who is balancing late night shifts with child rearing; the young student at a faith-based university who must decide what comes first, paying for birth control or paying for books; the employee of a craft store who has to work overtime to pay for birth control she needs for her health.

It is incumbent upon the Department to protect the religious liberty rights of all, including women workers, students and their dependents. It is these individuals' right to follow their own consciences, moral codes and beliefs when making decisions about contraception; they should expect their government to protect their liberty and ability to do so. Respecting religious liberty and protecting public health are important roles of the government. Discriminatory and unreasonable demands made in the name of "religious liberty," however, are not—and, indeed, undermine both.

We deeply value religious liberty, and we recognize contraceptive coverage as part of the nation's commitment to people's healthcare. We know that religious liberty is upheld when each person is able to follow their own conscience, beliefs and moral codes regarding the decision to use contraception and has access to the benefits that help make it more affordable. The same cannot be said when an employer is allowed to trump employees' personal beliefs through the denial of insurance coverage for contraception based on the employer's beliefs.

Moreover, while this IFR targets access to contraception for broad exemptions, the regulations leave open the door to other vast exemptions that undermine civil rights and protections for LGBTQ individuals and others. This is not acceptable. Again, while individual conscience is something that legitimately deserves the utmost respect and protection, that protection cannot come at the expense and harm of another's conscience and the protection of their religious liberty and civil rights.

Rather than advance religious freedom, these rules would encourage powerful institutions to dodge civil rights protections established to safeguard individuals, and they would enable the powerful to impose their idea of what is right on everyday Americans, with little oversight or checks on their power. This is far from a vision of America that defends its people's inalienable right to freedom and the pursuit of happiness. We, the undersigned organizations, ask the Department to protect contraceptive coverage and workers' religious liberty, and we urge that the IFR be rescinded.

Sincerely,

Abortion Care Network  
American Atheists  
American Humanist Association  
Association of Reproductive Health Professionals  
Call To Action USA  
Catholics for Choice  
Center for Inquiry  
DignityUSA  
In Our Own Voice: National Black Women's Reproductive Justice Agenda  
Jewish Women International  
Keshet  
Medical Students for Choice  
National Asian Pacific American Women's Forum  
National Center for Lesbian Rights  
National Council of Jewish Women  
National Latina Institute for Reproductive Health  
National LGBTQ Task Force  
National Organization for Women  
Religious Coalition for Reproductive Choice  
Religious Institute  
Secular Coalition for America  
Society for Humanistic Judaism  
Unitarian Universalist Women's Federation  
Women's Alliance for Theology, Ethics and Ritual (WATER)