



September 28, 2011

The Honorable Kathleen Sebelius
United States Department of Health and Human Services
200 Independence Avenue, SW
Washington, D.C. 20201

RE: CMS 9992-IFC2. "Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services under Patient Protection and Affordable Care Act: Interim Final Rule. (76 Fed. Reg. 46621)"

Submitted Electronically

Dear Secretary Sebelius,

On behalf of the Conventual Franciscan Friars of Marytown – the National Shrine of St. Maximilian Kolbe and the Franciscans Friars of St. Bonaventure Province including : Sacred Heart Friary – Chicago, Our Lady of Fatima Friary/Marytown - Libertyville, both in the Archdiocese of Chicago; All Saints Friary – Dearborn Heights, MI, in the Archdiocese of Detroit; St. Josaphat Friary of the Basilica in the Archdiocese of Milwaukee; Holy Family Friary in the Diocese of Peoria (IL); St. Anthony of Padua Friary in the Diocese of Rockford (IL); and St. Francis of Assisi Friary in the Diocese of South Bend (IN); we are writing to express our strong opposition to the Interim Final Rule on Preventive Services issued by the Department on August 3, 2011 and respectfully request that the Rule be withdrawn and rescinded. **The Interim Rule includes two provisions which we find highly objectionable: 1) the mandate on all private, group health care insurance plans – including those plans offered by our Order to our staff and employees – to cover prescription contraceptives approved by the FDA, including abortifacient drugs, surgical sterilizations, and related patient education and counseling; and 2) an objectionably narrow definition of "religious employer" for exemption from the proposed mandate.**

The Interim Final Rule proposed by the Department is particularly egregious to the belief and practices of our Catholic faith and our Franciscan Order. Our friars, (Priests and Brothers), are the custodians in the United States of the witness of St. Maximilian Kolbe, a Franciscan martyr of Auschwitz, whose life and sacrifice for the protection of innocent human life is a great legacy. Our Catholic faith teaches that all human life is sacred and that human fertility cooperates with God in the creation of human life. This cooperative action in the creation of human life is, we believe, the very foundation of human existence and society.

The Interim Rule being proposed undermines this essential understanding of the importance of human life and the significance of human sexuality. The Interim Rule includes a mandate under the "preventive services" proposed regulation which requires private health insurance plans to provide

prescription contraceptives, including abortifacients, sterilizations, and education related to these services. These services by design and definition interrupt healthy, functioning reproductive systems and are meant to prevent pregnancy. The mandate to cover these services as proposed, suggests an official Federal government policy position that pregnancy is a “disease to be prevented or terminated” for any reason. By *requiring* all private, group health plans to provide contraceptives and abortifacients such as Ella, Plan B, and RU486, as well as sterilizations, the Interim Rule seriously undermines the intrinsic procreative nature of human sexuality and threatens the generative, biological process begun in pregnancy.

We cannot support such a distortion in the understanding of the most elemental and vital state in human existence. The extreme misrepresentation of pregnancy being promulgated by the Interim Rule not only re-defines what pregnancy is, but far exceeds the statutory requirements of the Patient Protection and Affordable Care Act (PPACA); and suggests a Federal government position that is hostile to the creation and universal dignity of human life. This is not the first time our Order has encountered such a proposition being promulgated by a government, as the life and witness of St. Maximilian attests. We are bound to speak against such a concept which in truth undermines and threatens the essential sanctity of human life.

Further, the Interim Rule creates a mandate that reverses decades old policy consensus to protect religious freedoms and rights of conscience in health care provision. The Interim Rule’s absurdly narrow exemption offered to religious providers contains no real protections for ministries or religious orders such as the Conventual Franciscans, whose very existence is predicated on serving the spiritual and physical needs of the public. Under the provisions of the Interim Rule, our Order and our ministries could not attain the religious exemption because, as a public ministry, we serve people of different faiths, we hire people of different faiths, and we make our missionary activities open to all people. We do not – and cannot – confine our concern, outreach or ministries to only members of the Catholic Church. We cannot withdraw from public ministry to meet the over-reaching requirements of the Department as promulgated in the Interim Rule.

Our constitutionally protected, First Amendment exercise of the essential teachings of our Catholic Faith and our Franciscan Order cannot and should not be abrogated as proposed by the Interim Rule issued by the Department. As the U.S. Conference of Catholic Bishops correctly identified, “[t]he impossible dilemma arising from the rule requires either the forced withdrawal of the Catholic Church from public ministry or the violation of deeply-held religious belief.” (Letter of the U.S. Conference of Catholic Bishops to the Honorable Kathleen Sebelius, Sept. 9. 2011)

The Church’s teaching on the sanctity and protection of human life, starting at conception, is not negotiable. Requiring our Order to provide health insurance with the mandate that such insurance must include “preventive services” options that effectively terminate human life is unacceptable. We believe there is an intrinsic wrong in contraception, abortion (including abortifacient drugs), and sterilization and we must object most strenuously to efforts to require those services in government mandated health insurance policies which we provide for ourselves and to our employees. The essential teachings of the Catholic Church on the issue of the sanctity of human life may or may not be popular; but our government cannot be allowed to force upon our Order such a mandate as is proposed by the Department’s Interim Rule.

We strongly urge the Department to withdraw and rescind the Interim Rule.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Fr. Patrick Greenough, OFM Conv." The signature is written in a cursive, flowing style.

Father Patrick Greenough, OFM Conventual
Provincial Minister
St. Bonaventure Province