Submitted Electronically

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Room 445-G
Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

Dear Sir or Madam:

On behalf of the Catholic Conference of Illinois, the public policy arm of the Catholic Church in Illinois, we respectfully submit the following comments on the Notice of Proposed Rulemaking on preventive services as detailed in 78 Fed. Reg. 8456 (Feb. 6, 2013).

- From our point of view, the mandate found in the newly proposed rulemaking is not substantively different from earlier versions. The current proposal, like previous ones, would mandate coverage of abortifacient drugs, contraceptives, sterilization procedures for women, and related education and counseling in health plans. These are items and procedures that, unlike other mandated "preventive services," do not prevent disease. The proposed regulation is therefore at odds with the purpose of the preventive services provision of the Affordable Care Act (ACA) upon which that regulation purports to be based. In addition, as the regulation requires coverage of drugs that can operate to cause an abortion, the mandate violates provisions of ACA on abortion and non-preemption, a distinct federal law forbidding government discrimination against health plans that do not cover abortion, and the Administration's own public assurances, both before and after enactment of ACA, that the Act does not require, and would not be construed to require, coverage of abortion.

- Under the current proposal, no exemption or accommodation is available at all for the vast majority of individual or institutional stakeholders with religious or moral objections to contraceptive coverage. Virtually all Americans who enroll in a health plan will ultimately be required to have contraceptive coverage for themselves and their dependents, whether they want it or not. Likewise, unless it qualifies as a "religious employer," every organization that offers a health plan to its employees (including many religious organizations) will be required to fund or facilitate contraceptive coverage, whether or not the employer or its employees object to such coverage. This requirement to fund or facilitate produces a serious moral problem for these stakeholders.

- Although the definition of an exempt "religious employer" has been revised to eliminate some of the intrusive and constitutionally improper government inquiries into religious teaching and beliefs that were inherent in an earlier definition, the current proposal continues to define "religious employer" in a way that—by the government's own admission—excludes a wide array of employers that are undeniably religious. Those employers therefore remain subject to the mandate. Generally the nonprofit religious organizations that fall on the "non exempt" side of this religious division include those organizations that contribute most visibly to the common good through the provision of health, educational, and social services. The religious community should not be divided into those "religious enough" to qualify for the exemption from the

mandate, and those not—especially when that division falsely assumes that preaching one's faith is "religious," while living it out is not.

- The Administration has offered what it calls an "accommodation" for nonprofit religious organizations that fall outside its narrow definition of "religious employer." The "accommodation" is based on a number of questionable factual assumptions. Even if all of those assumptions were sound, the "accommodation" still requires the objecting religious organization to fund or otherwise facilitate the morally objectionable coverage. Such organizations and their employees remain deprived of their right to live and work under a health plan consonant with their explicit religious beliefs and commitments.

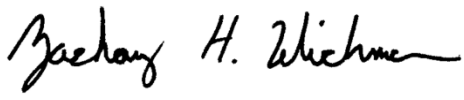
- The mandate continues to represent a sustained violation of religious liberty by the federal government. As applied to individuals and organizations with a religious objection to contraceptive coverage, the mandate violates the First Amendment, the Religious Freedom Restoration Act, and the Administrative Procedure Act.

In short, the Administration continues to propose: (a) an unjust and unlawful mandate; (b) no exemption or "accommodation" at all for most stakeholders in the health insurance process, such as individual employees and for-profit employers; (c) an unreasonably and unlawfully narrow exemption for some nonprofit religious organizations, mostly houses of worship; and (d) an "accommodation" that divides religious organizations, ministries and people while still requiring bona fide religious employers that fall outside the narrow government definition of "religious employer" to fund or facilitate the objectionable coverage.

We again urge the Administration to reconsider this proposed course, respect the rights of conscience and religious freedom that all Americans are entitled to and withdraw the proposed rulemaking.

Respectfully Submitted,

Robert Gilligan
Executive Director



Zach Wichmann
Director of Government Relations

CATHOLIC CONFERENCE OF ILLINOIS
108 East Cook Street
Springfield, IL 62704