



June 12, 2017

The Honorable Mick Mulvaney  
Director  
The Office of Management and Budget  
725 17th Street, NW  
Washington, D.C. 20503

Dear Director Mulvaney:

On behalf of the members of the American College of Nurse-Midwives (ACNM), we write to express serious concern regarding a draft interim final rule (IFR) entitled “Coverage of Certain Preventative Services Under the Affordable Care Act” currently under review at the Office of Management and Budget<sup>1</sup>. ACNM urges the Administration to build upon the significant gains made for women’s health in the United States over the last decade, particularly for access to affordable preventative services including contraception for women. ACNM is opposed to further broadening of the existing exemption that permits non-profit or closely held for-profit religious organizations to refuse coverage of Food and Drug Administration (FDA) approved contraception coverage based on religious objections because the draft IFR would impair women’s access to contraceptive services and place employers between women employees and their healthcare choices. We request that the Administration withdraw this draft IFR and engage with stakeholders in women’s health, such as ACNM, to yield effective public policy that supports and advances women’s health.

ACNM is the professional association that represents certified nurse-midwives (CNMs) and certified midwives (CMs) in the United States. With roots dating to 1929, ACNM sets the standard for excellence in midwifery education and practice in the United States and strengthens the capacity of midwives in developing countries. Our members are primary care providers for women throughout their lifespan, with an emphasis on pregnancy, childbirth, and gynecologic and reproductive healthcare. Currently, there are some 12,000 CNMs/CMs throughout the U.S. who provide access to preventive health care services and attend over 330,000 births in the country annually. The vast

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<sup>1</sup> <https://www.reginfo.gov/public/do/eoDetails?rrid=127381>

majority of all midwifery births occur in the hospital, with some in birth centers and others in homes. Midwives promote healthy physiologic births. By doing so, they help reduce the incidence of unnecessary caesarean sections and over use of non-indicated interventions. Healthy physiologic birth means healthier moms and newborns, fewer complications and much lower healthcare costs.

The ACNM and its members stand for improving access to quality care and coverage for women and newborns. We support common-sense policy solutions that ensure women and families have guaranteed health coverage and access to a full range of preventative, reproductive and sexual health services under state Medicaid programs and coverage and access to essential health benefits (EHBs), including contraceptive coverage.

Under the Affordable Care Act (ACA) most health plans are required to cover, without cost sharing, all FDA-approved contraceptives, sterilization procedures, and patient education and counseling for women with reproductive capacity, as prescribed by a healthcare provider. Religious houses of worship were the only entities to receive an exemption from the mandate. Since the passage of ACA various organizations, without an express exemption to the mandate, have raised religious objections and pursued legal challenges to providing coverage of contraceptive options and services resulting in regulatory action. In July 2015, the Centers for Medicare & Medicaid Services (CMS), the Internal Revenue Service (IRS) and the Employee Benefits Security Administration (EBSA) jointly published a final regulation regarding coverage of certain preventive and screening services, including contraceptive items and services, by non-grandfathered group health plans and health insurance coverage for individuals. Under the final regulation, a non-profit religious organization or closely held for-profit organization with religious objections to providing coverage for some, or all, of the contraceptive items and services, otherwise required to be covered, would be exempt from providing such coverage if the organization meets the designated eligibility criteria.

The “Coverage of Certain Preventative Services Under the Affordable Care Act” draft IFR currently under review seeks to dramatically expand this exemption in such a way that brings new and unwarranted, discriminatory intrusion of employers into the healthcare decisions of their female employees who have employer-provided health benefits. In no other area of health do employers have such veto authority over the normal and customary health coverage of their employees. The draft IFR would expand the specified types of employers permitted to refuse to include contraception in the benefit package offered to their employees by allowing any employer to request an exemption based on religious or moral objections. This provision would undoubtedly limit access and coverage of reproductive health choices to the detriment of women and their partners – essential services that the ACA expanded to the benefit of women.

The draft IFR turns back the clock on what has been documented to be effective and beneficial public policy. Access to family planning counseling and a full array of family planning services is vital for our communities and for women’s health and well-being, particularly for those families who wish to avoid or postpone pregnancy. By helping women control the timing, number and spacing of births, women’s health is improved. Access to contraceptives supports family planning options

which secure many benefits for women, their partners and for the children they may have in the future. Planned pregnancies, allow women to optimize their own health before pregnancy and childbirth. An unintended pregnancy has significant implications for a woman's health, and can worsen preexisting conditions such as cardiomyopathy, diabetes and hypertension which contribute greater risk of maternal mortality. Planned pregnancies improve the overall health and well-being of children as well. Adequate birth spacing lowers the risk of low birth weight, preterm birth, and small-for-gestational age babies. ACNM supports the rights of individual healthcare professionals to be guided by their conscience in personal delivery of health services. We also support the right of a woman to self-determine healthcare choices that meet her personal needs, including cultural, spiritual or religious convictions. These are personal, individual decisions, not institutional choices, and not choices that are appropriate for employers to make for their individual employees' that impact their private lives and health. A full array of family planning services is vital for the health and well-being of women, their families, and our communities.

ACNM recommends the draft IFR be withdrawn, and that a process involving stakeholders in women's health including ACNM be engaged by the appropriate federal agencies to ensure women's access to the full range of family planning services including contraceptive coverage without point-of-service costs. Any changes to existing coverage must provide a mechanism through which women can still access the full range of FDA-approved contraceptive products and services while simultaneously preserving individuals' constitutional right to the free exercise of religion.

Thank you for your attention to this critical issue affecting women's health in the United States. We look forward to your response. If you have any questions, please contact Frank Purcell at [fpurcell@acnm.org](mailto:fpurcell@acnm.org) or 240-485-1810.

Sincerely,



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American College of Nurse-Midwives



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