Written by **Raven Clabough** on July 23, 2014

White House May Compromise on Contraception Mandate

After the Supreme Court's favorable ruling in the Hobby Lobby case, Democrats initially retaliated by announcing plans to circumvent the finding of the high court; however, there are indications that the White House may back down on the ObamaCare contraception mandate.

As *The New American* reported on the Supreme Court's 5-4 decision on June 30,

> The ruling came in favor of two family-held companies — Hobby Lobby, owned by the Green family, and Conestoga Wood Specialties, owned by the Hahn family — both of whom had said that the mandate would represent an unacceptable moral obstacle to their businesses. Both companies faced millions of dollars in fines for refusing to make available abortion-inducing contraceptive drugs to their employees. Hobby Lobby and another company owned by the Greens faced as much as $1.3 million in fines for CEO David Green's resolute refusal to bow to the mandate. "This legal challenge has always remained about one thing and one thing only," said Green when his company first filed suit to stop the mandate — "the right of our family businesses to live out our sincere and deeply held religious convictions as guaranteed by the law and the Constitution."

The majority opinion cited the Religious Freedom Restoration Act, asserting that the federal Department of Health and Human Services cannot force owners of Christian-based businesses to violate their convictions in order to adhere to the mandate.

The ruling was met with indignation in the White House. White House Press Secretary Josh Earnest declared in response to the high court's ruling: "Today's decision jeopardizes the health of women who are employed by these companies."

Angered by the verdict, Senate Democrats introduced a bill nicknamed "Not My Boss's Business Act,"

the intent of which was to restore the contraceptive mandate. However, that measure failed to garner the 60 votes needed to pass. Senate Majority Leader Harry Reid has said that the Senate could vote again on the issue before the end of the year.

According to *The Hill*, however, the White House may now be interested in negotiating a compromise proposal that would let "nonprofits opt out of ObamaCare's contraception mandate without filing a form they say violates their religious belief."

The Hill notes,

> Religious nonprofits that do not want to provide free contraception to their workers can now opt out by submitting a Form 700 stating their religious objection to contraception. Insurance companies can then use the form to provide free contraception to workers and get tax credits from the government in return.

But some of those organizations have balked, noting that in having to complete Form 700, they would ultimately still be participating in a system to provide access to free birth control — a violation of their beliefs.

One such organization is Wheaton College, an evangelical institution in Illinois, that is suing the Department of Health and Human Services over the contraception mandate.

Initially, the Obama administration attempted to have Wheaton College's case thrown out, stating that in light of the Hobby Lobby ruling, the college is "already free to opt out of providing or arranging contraceptive coverage under religious accommodations that 'effectively exempt' it from the relevant requirement."

Solicitor General Donald Verrilli said that Wheaton College "need only self-certify that it is eligible for the accommodations and inform its insurance issuers and third party administrator. By doing so, it will avoid any requirement that it 'contract, arrange, pay, or refer for contraceptive coverage' to which it objects."

But Wheaton says that the accommodation to use a third-party insurer still violates its rights under the Religious Freedom Restoration Act, because allowing third-party insurers to provide the contraception and then being reimbursed by the federal government still constitutes an endorsement of the system.

The Supreme Court has issued an injunction in favor of Wheaton College that declares that the evangelical institution will not have to complete a third-party form while the court issues a final ruling on the subject. The court advised that instead of completing the form, Wheaton could declare itself a religious nonprofit organization to the Department of Health and Human Services.

"To meet the condition for injunction pending appeal, the applicant need not use the form prescribed by the government, EBSA Form 700, and need not send copies to health insurance issuers or third-party administrators," a majority of the justices wrote in the order.

Responding to the objections raised by Wheaton College, as well as various other nonprofits such as the Little Sisters of the Poor, a senior administration official said on Tuesday they are working on an alternative option for religious nonprofits that do not want to fill out the document. A federal regulation on the matter is expected in August.

"The administration believes the accommodation is legally sound but in light of the Supreme Court order regarding Wheaton College, the departments intend to augment their regulations to provide an alternative way for objecting nonprofit religious organizations to provide notification, while ensuring

that enrollees in plans of such organizations receive separate coverage of contraceptive services without cost sharing," said a senior administration official.

Still, some critics have voiced concerns that the Obama administration will not adequately ensure that pro-life groups who oppose the mandate will be accommodated.

Father Frank Pavone, national director of Priests for Life, told LifeNews, "The Priests for Life lawsuit against the HHS mandate is the next to be decided, having already had oral arguments in the nation's second most influential Court, the DC Circuit Court of Appeals. At the crux of the issue is that our completion of the form required under the 'accommodation' given to religious non-profit groups constitutes cooperation in the very evil that the form says we are objecting to."

He said, "If the government just kept us out of the process altogether of either triggering, authorizing, or in any fashion being the gateway for employees to receive coverage for objectionable practices, that would satisfy our concerns. Of course, we would have to carefully examine any changes the Administration makes to its current policy, in order to verify that what our faith considers immoral cooperation is completely excluded."

In truth, this entire problem has come about as a result of the government involving itself in healthcare, rather than allowing private individuals or employers to work out these issues on their own. Constitutionally speaking, the federal government has no authority to get involved with healthcare in the first place. "He who pays the piper, calls the tune," as the saying goes, and if Americans want government to manage their healthcare, they might not always like what they get.

Photo of President Barack Obama: AP Images