



Written by [Raven Clabough](#) on June 22, 2016

## HHS Rejects Catholic Universities' "Right of Conscience" Complaints

The U.S. Department of Health and Human Services announced on Wednesday that Catholic schools must provide health insurance to its employees that cover abortions. HHS' decision to reject a challenge from a group of Catholic schools is based on California state law, which indicates that insurance coverage must cover all "medically necessary" procedures, a category to which the state contends abortion belongs.



The Daily Caller reports that two Catholic universities in California, Clara University and Loyola Marymount University (shown), had opted against providing elective abortions in their healthcare coverage, as it would be antithetical to their belief system to do so, but are now being told that they do not have a choice.

In 2013, both universities announced that they would stop paying for employees' elective abortions, and that their insurers had secured approval from state officials to eliminate this provision in their coverage, Catholic News Agency reports. In 2014, however, after faculty at Loyola and Santa Clara objected to this limitation in their health plans, state officials at the California Department of Managed Care informed insurers that they were required to provide abortion coverage in their insurance plans. Naturally, this provoked the ire of the Catholic organizations.

Bishop Robert McElroy described the state officials' actions at the time as "coercive and discriminatory."

In response to the order by the California Department of Managed Care, the Catholic conference filed a "right of conscience" complaint with the U.S. Department of Health and Human Services' Office of Civil Rights. Catholic News Agency explains, "That office is responsible for applying a federal law known as the Weldon Amendment, which bars states that accept federal funds from discriminating against institutions and health care entities that do not provide coverage or refer for abortions." In other words, the state's actions were in violation of the Weldon Amendment.

Bishop McElroy, chairman of the state Catholic conference's Institutional Concerns Committee, asserts that the state "directly targeted at Catholic institutions like Santa Clara University, Loyola Marymount University, along with other California employers and citizens."

"It is a flagrant violation of their civil rights and deepest moral convictions, and is government coercion of the worst kind," he opined.

But on Tuesday, HHS upheld the Department of Managed Care's order and rejected the "right of conscience" claim, stating that an insurance provider could not be considered a "healthcare entity."

The *LA Times* reports, "The office said the provision, which protects doctors, nurses, hospitals and other healthcare providers who object to perform abortions, does not extend to health insurance firms



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that have no moral objection to providing abortion coverage and instead are acting on the request of religious-minded customers.”

After two years of reviewing the complaint, the office determined that the Weldon Amendment does not apply in this case because the insurance providers are willing to provide the abortion coverage. “There is no healthcare entity protected under the [right of conscience] statute that has asserted religious or moral objections to abortion and therefore there is no covered entity that has been subject to discrimination within the meaning of the Weldon Amendment,” Jocelyn Samuels, director of the Office for Civil Rights at the Department of Health and Human Services said in a [letter](#) to the California complainants.

Samuels did note that Anthem Blue Cross had been permitted to exclude voluntary abortion coverage by the CA Department of Managed Health Care for religious employers who employed and served people with the same religious beliefs, but that this definition could not be applied to many religious universities or hospitals.

The Alliance Defending Freedom, which challenged the ruling alongside the Life Legal Defense Foundation, cited the decision as an example of government violating the First Amendment rights of religious Americans:

The Obama Administration is once again making a mockery of the law, and this time in the most unimaginable way. Churches should never be forced to cover elective abortion in their insurance plans, and for ten years the Weldon Amendment has protected the right to have plans that do not include coverage for abortion-on-demand. But the state of California has ordered every insurer, even those insuring churches, to cover elective abortions in blatant violation of the law. The Obama Administration’s refusal to enforce this law continues its pattern of enforcing laws it wants to enforce, refusing to enforce others, and inventing new interpretations of others out of whole cloth. We will continue to defend churches from this clear violation of the First Amendment and federal law and call on Congress to hold the Department of Health and Human Services accountable.

According to the ADF, the ruling places churches in the difficult position of having to pay for abortions or forego health insurance and face crippling penalties as a result.



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