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FOR IMMEDIATE RELEASE
December 16, 2020**Contact: HHS Press Office**
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HHS to Disallow \$200M in California Medicaid Funds Due to Unlawful Abortion Insurance Mandate; Refers Vermont Medical Center to DOJ for Lawsuit Over Conscience Violations

Today, the U.S. Department of Health and Human Services (HHS), Office for Civil Rights (OCR) makes two announcements regarding enforcement of federal conscience laws. First, HHS will disallow \$200 million in federal Medicaid funds going to California in the upcoming quarter due to the state illegally mandating that all health care plans subject to regulation by the California Department of Managed Health Care (DMHC) cover abortion without exclusion or limitation. If the State does not come into compliance, additional disallowances will be imposed at a rate of \$200 million per quarter. As a result of California's mandate, health plan issuers were compelled to remove coverage exclusions and limitations regarding abortion coverage, which forced employer groups associated with over 28,000 individuals out of plans that until that time had chosen to not cover elective abortions. California's mandate violates a federal antidiscrimination law known as the Weldon Amendment, which protects entities from being forced to provide, pay for, or provide coverage for abortions. California has refused to come into compliance with the Weldon Amendment, despite several demands from OCR as well as offers from OCR to assist it in coming into compliance.

Second, HHS has referred the University of Vermont Medical Center (UVMCMC) to the U.S. Department of Justice (DOJ) for enforcement after a thorough investigation of UVMCMC's violation of the conscience protection laws known as the Church Amendments. OCR concluded that UVMCMC unlawfully forced a nurse to assist in an elective abortion procedure over the nurse's conscience-based objections and has refused to change its policies to prevent future coercion. As a result of the referral, DOJ is suing UVMCMC on HHS's behalf.

OCR, through its Conscience and Religious Freedom Division, is charged with enforcing federal conscience statutes, including the Weldon and Church Amendments, and helping ensure entities come into compliance with these and other federal laws that protect conscience rights and prohibit coercion in health care.

"Under President Trump, HHS has worked like never before to enforce laws Congress has passed to protect Americans' religious freedom and conscience rights," said HHS Secretary Alex Azar. "California and the University of Vermont Medical Center have violated federal conscience laws and refused to work with us to take corrective action, so we are now taking action to hold them to account."

Roger Severino, OCR Director said, "Entities that receive HHS funds should think twice before flouting federal law and refusing to come into compliance. As a result of our actions today, California will be losing \$200 million in federal funds per quarter, and UVMCMC will have to answer for its conduct in court." Severino added, "Whatever one thinks of the legality of abortion, no one should be punished for declining to pay for or assist in the taking of human life."

Disallowance for California's Abortion Insurance Mandate

OCR investigated California based on complaints filed by a Catholic order of religious sisters and a non-profit Christian Church, both of which alleged that DMHC, which licenses and approves over ninety-six percent of "commercial and public health plan enrollment" within California, began mandating abortion coverage in 2014, without exclusion or limitation for health plans throughout the state.

Because of their respect for the sanctity of all human life, the religious sisters and other complainants object to paying for elective abortion insurance for themselves and their colleagues.

California's mandate forced seven health insurance issuers to suspend plans that until that time had not covered elective abortions, which in turn forced over 28,000 individuals out of those plans, including complainants. On January 24, 2020, OCR [found California in violation - PDF](#) of the Weldon Amendment for discriminating against health plans and health plan issuers that did not cover abortion (or had limited abortion coverage) by forcing them to provide abortion coverage without limitation or face possible suspension of their ability to issue insurance plans in the state.

California has refused to come into compliance with the Weldon Amendment, despite demands from OCR to do so and offers of OCR technical assistance.

Due to California's noncompliance, OCR referred the matter to the Centers for Medicare & Medicaid Services (CMS) for enforcement. CMS will take enforcement action against California by disallowing \$200,000,000 in Medicaid Federal Financial Participation (FFP) funds each fiscal year quarter, beginning January 2021, and totaling \$800,000,000 annually, until California comes into compliance with the Weldon Amendment.

The Department determined that a \$200,000,000 disallowance of Medicaid FFP funds each quarter is the most appropriate mechanism to enforce the Weldon Amendment against California and induce compliance, consistent with Supreme Court precedents concerning Congress's authority to impose reasonable conditions on states that accept federal funds.

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Click to read the January 24, 2020 HHS news release: [HHS Issues Notice of Violation to California for its Abortion Coverage Mandate](#).

Click to read the January 24, 2020: [California Notice of Violation - PDF](#)

University of Vermont Medical Center Referral to DOJ

On May 11, 2018, a nurse at UVMCMC filed a conscience and religious discrimination complaint with OCR against UVMCMC, a medical center in Burlington, Vermont that receives grant funds from HHS, contending that the nurse was forced to assist in an abortion procedure in violation of the nurse's conscience rights.

Although UVMCMC could have readily, and without interruption to patient services, accommodated the religious or moral objections to elective abortion of its health care personnel, UVMCMC has nevertheless illegally assigned numerous objecting personnel to such procedures. In violation of the plain language of the Church Amendments, UVMCMC's "conflict of care policy" reserves the right to disregard nurses' expressed religious or moral objections to participating in abortion procedures.

Upon concluding its investigation, OCR issued a [Notice of Violation letter - PDF](#) on August 28, 2019, asking UVMCMC to conform its policies to the Church Amendments and take other corrective action; however, UVMCMC has refused to voluntarily comply with federal law and its contractual obligations as a federal grant recipient. HHS has referred the matter to DOJ, which filed suit in the U.S. District Court for the District of Vermont on behalf of HHS, seeking a court order requiring UVMCMC to comply with the Church Amendments and uphold its contractual obligations.

Click to read the August 28, 2019 HHS news release: [OCR Issues Notice of Violation to the University of Vermont Medical Center After It Unlawfully Forced a Nurse to Assist in Abortion](#)

Click to read the August 28, 2019 HHS: [UVMCMC Notice of Violation - PDF](#).

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