



NATIONAL
INSTITUTE FOR
REPRODUCTIVE
HEALTH

KELLI CONLIN April 7, 2009
President

Office of Public Health and Science
Department of Health and Human Services
Attention: Rescission Proposal Comments
Hubert H. Humphrey Building
200 Independence Avenue, SW
Room 716G
Washington, DC 20201

RE: Comments Regarding the “Rescission Proposal” (RIN 0991-AB49)

Dear Acting Secretary Johnson,

We are writing to strongly support the proposed regulation, “Rescission Proposal,” published on Tuesday, March 10, 2009, by the Department of Health and Human Services (“HHS”) to fully rescind the HHS regulation entitled “Ensuring That Department of Health and Human Services Funds Do Not Support Coercive or Discriminatory Policies or Practices in Violation of Federal Law” (“HHS Regulation” or “Regulation”). The Rescission Proposal is needed to stop this unnecessary Regulation from undermining patients’ access to critical health care services and information.

The National Institute for Reproductive Health is an innovation institute for state and local organizations working on reproductive health issues. We work with state and local leaders to help women across the country gain access to the full range of quality reproductive health care options, the freedom to exercise their reproductive rights and the opportunity to have healthy pregnancies.

The HHS Regulation has created numerous barriers since it was implemented and the Rescission Proposal must be enacted so that these barriers will be removed. First, the HHS Regulation has created confusion, particularly in regards to the definition of “abortion” and “contraception.” In a previously leaked draft of the Regulation, HHS defined the term “abortion” to include commonly used FDA-approved birth control methods. Instead of acknowledging the massive public concerns over this language and including a definition of abortion consistent with the medical community and existing

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federal policy, the proposed Regulation withdrew the definition entirely and left it open to personal interpretation and political agendas. As a result, health care providers, including doctors, nurses, insurance plans, hospitals, and almost any other employee in a health care setting, now have the ability to deny women access to many forms of commonly used birth control. This Regulation is completely out of line with the majority of Americans' beliefs and is one of the reasons the Rescission Proposal is needed.

Virtually all American women will use birth control at some point in their lives. In fact, ninety-eight percent of women aged 15 to 44 who have ever had intercourse have used at least one contraceptive method.¹ The American public overwhelmingly believes that everyone should have a right to birth control access; eighty-nine percent of the voting public is in favor of public funding for family planning services.² In addition, federal funding for family planning programs ultimately saves the federal government money. Nationally, for every \$1.00 spent to provide services in the nationwide network of publicly funded family planning clinics, \$4.02 is saved in Medicaid birth costs that are averted.³ Access to birth control is a basic health care need and the Rescission Proposal, when enacted, will help ensure women have access to needed family planning services.

The Rescission Proposal is also needed to ensure that women are given all the information they need to make informed choices about their health. The HHS Regulation dangerously expands health care providers' refusal rights to include the provision of information on topics and treatments that they find objectionable for religious or moral reasons. This seriously undermines the ethical and legal obligations health care providers have to provide their patients with complete information on their medical options. In fact, the Regulation comes in direct conflict with the requirements of the Title X program, which guarantees that the approximately 5 million low-income women who access reproductive health care services through this important safety-net program will receive non-directive counseling regarding all of their options related to their pregnancy.⁴ Under the HHS Regulation, women are no longer guaranteed they will receive the information they need in order to make an important health care decision. The Rescission Proposal must be enacted so that women are able to obtain the information and assistance they need to make educated decisions about their health care.

The HHS Regulation particularly jeopardizes access to health care services for the millions of women who depend on publicly-supported health services. The women who depend on publicly-supported health services are the most vulnerable of our society. They include low-income, uninsured and underinsured women who already face many barriers to accessing needed health care, including lack of transportation, lack of affordable child care, and lack of funding to cover the cost of needed services. Low-income women and women of color have been disproportionately affected as they are more likely to depend on publicly-supported health services. Without federally funded health care programs, most of these women would not have anywhere else to turn for their reproductive health information and services. These women do not always have the luxury to shop around for alternate health care providers that are willing to help them and health care facilities where they can receive services. By expanding the types of workers who can refuse services, and the range of services that can be denied, the government

restricts access to health services for those women who already face significant hurdles in accessing basic health care. The Rescission Proposal is needed in order to ensure all women have access to the information and health care they need.

Lastly, the HHS Regulation was unnecessary and has only served to decrease health care access for our most vulnerable populations. The protections that it purports to give health care providers already exist in current laws. These laws have been in effect for many years, without any recognized need for clarification. Not only is the Regulation unjustified, but it may allow health care providers to refuse to provide the services that they are receiving funding from HHS to provide in the first place.

The Rescission Proposal must be enacted to protect patients' access to information and health care services, eliminate the confusion created by the HHS Regulation, and ensure access to health care for low-income women and other vulnerable populations. With approximately 46 million Americans uninsured, the Department should prioritize the expansion and protection of health care access for women, their families, and all Americans.⁵ We fully support the Rescission Proposal because we believe it will bring us one step closer toward that goal.

Thank you,



Kelli Conlin
President
National Institute for Reproductive Health

¹ Guttmacher Institute, "Facts on Contraceptive Use," 2008,
http://www.guttmacher.org/pubs/fb_contr_use.html.

² National Family Planning and Reproductive Health Association, "Family Planning Facts," 2008,
http://www.nfprha.org/main/family_planning.cfm.

³ Guttmacher Institute, "Facts on Publicly Funded Contraceptive Services in the United States," 2008,
http://www.guttmacher.org/pubs/fb_contraceptive_serv.html.

⁴ Planned Parenthood Federation of America, "America's Family Planning Program: Title X," 2007,
<http://www.plannedparenthood.org/issues-action/birth-control/family-planning-6553.htm>.

⁵ U.S. Census Bureau, "Income, Poverty, and Health Insurance Coverage in the United States: 2007," 2008,
<http://www.census.gov/prod/2007pubs/p60-233.pdf>.