

June 30, 2014

Supreme Court Sides with Hobby Lobby, Rules Religious Convictions Trump PPACA Contraception Mandate (Corrected Version)

A divided U.S. Supreme Court ruled today that the Patient Protection and Affordable Care Act (PPACA) cannot compel for-profit closely held corporations to offer certain contraceptive coverage through their health plans, where the coverage conflicts with a sincerely held religious belief of the corporations' owners.

Background

The PPACA requires nongrandfathered health plans to provide to enrollees a wide variety of preventive care services with no cost sharing; that is, no deductibles, coinsurance or copayments. One of the mandated preventive care categories is well-woman care. Federal authorities have said the PPACA mandate requires nongrandfathered health plans to provide, as part of the well-woman care benefit, any FDA-approved contraceptive method. There are some exceptions and caveats for plans sponsored by religious employers and certain nonprofit religious organizations, but no exception applies to for-profit businesses.

There are 20 FDA-approved contraceptive methods, four of which may have the effect of preventing an already fertilized egg from developing further by inhibiting its attachment to the uterus.

Some owners of closely held companies, including the owners of Hobby Lobby, pushed back in the courts, arguing that the mandate conflicts with their personal religious beliefs that life begins at conception. They challenged the mandate, alleging it violates both the First Amendment's prohibition on federal interference with the free exercise of religion, and a 20-year-old federal law called the Religious Freedom Restoration Act (RFRA).

Supreme Court: Religious Beliefs Trump Contraception Mandate

A majority of the Supreme Court sided with Hobby Lobby's owners and other plaintiffs (a case brought by owners of another company was combined with the Hobby Lobby case). The majority concluded that owners of closely held companies—even those that are for-profit—have the right under the RFRA to challenge, on religious grounds, mandates levied upon their companies.

The Court concluded the contraception mandate substantially burdens the owners' exercise of religion, because their companies faced huge fines under the PPACA for not honoring the mandate. Under the RFRA, the government can substantially burden a person's exercise of religion, but may do so only to further a compelling interest, and only in the least restrictive way.

While the Court assumed that federal authorities have a compelling interest in guaranteeing female insureds' cost-free access to the four challenged contraceptive methods, the Court decided there are other, less restrictive ways for the federal government to ensure access to those methods.

For example, the government could pay for the four methods itself, or extend to privately-held businesses an existing procedure already offered by the federal Department of Health and Human Services (HHS) to nonprofit religious organizations. Under that procedure, the organization self-certifies a religious objection and the coverage mandate is then met by the organization's insurer or third-party administrator, which offsets the cost of the mandate against other tax liabilities owed to the federal government.

The Court concluded the mandate, at least insofar as the four contraception methods in dispute are concerned, violates the RFRA when applied to the owners of closely held for-profit companies who hold sincere religious beliefs conflicting with the mandate. The Court did not need to address the question of whether the mandate violates the First Amendment's protection from interference with the free exercise of religion.

What's Next?

Today's ruling does not extend to corporations that are not closely held, or to closely held companies whose owners do not have a sincerely held religious conviction against contraception. (In the eyes of the IRS, a closely held company is one that, generally speaking, has more than half its stock owned – directly or indirectly – by five or fewer individuals; it is not clear whether the Supreme Court, in alluding to "closely held corporations," meant the IRS definition or something narrower.)

In addition, the Court took pains to point out its ruling is narrow. It does not, for example, mean that all insurance coverage mandates (e.g., for vaccinations or blood transfusions) are necessarily impermissible if they conflict with an employer's religious beliefs. Nor does the ruling protect employers who might engage in illegal discrimination and then attempt to cloak it as consistent with a religious belief.

The vast majority of employers sponsoring group health plans have complied with the contraception mandate without objection, so the issue has little significance beyond the relative

handful of closely held employers siding with Hobby Lobby's position. Nonetheless, the case has been interesting because it exists at the intersection of three hot-button issues in America today: the PPACA, religious freedom and the question of when life begins.

We assume HHS will now offer Hobby Lobby and companies like it the same opt-out procedure offered to nonprofit religious organizations. Challenges to this procedure are also currently making their way through the courts, but today's decision suggests that the opt-out procedure will be upheld.

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