

Prohibition on Enforcing Requirements for Scope of Health Care Coverage if Insurer Claims Religious/Moral Objection: *Opening a huge gap in standards for health insurance*

Section 537 of the Republican bill prohibits use of funds to enforce any provision of the Affordable Care Act (ACA) that requires health plans or group or individual health insurance policies to cover any particular items or services if the issuer, purchaser or sponsor of the plan or policy “objects to such items or services on the basis of religious beliefs *or moral convictions.*” Enactment of this provision could make it very difficult to enforce requirements regarding what health insurance must cover, since an insurer or sponsor could simply claim some moral objection to a wide variety of services.

This language is sweeping in its breadth and reach. Despite the reference to “religious beliefs,” the language is by no means limited to organizations and institutions that have some sort of religious purpose or connection. Rather, the benefits of this exception would be available to any health insurer or health plan, or to any corporation, business, organization or agency that might purchase, sponsor, or provide health insurance or other health coverage. Further, not only religious beliefs but also any asserted moral conviction would be sufficient to defeat any requirement regarding the content of health plans and policies.

As to what provisions of the ACA this language might be trying to override, likely candidates include the requirement that preventive services be covered without copayments or other cost-sharing, and the requirement that insurance policies cover a list of “essential health benefits.” However, the language is written in very general terms, and could reach anything in the ACA that sets any requirements for what health insurance should cover. Perhaps it could even be used to carve out exceptions from the ban on exclusions for pre-existing conditions.

As to what healthcare services might be affected, the possibilities are extremely broad, since the language speaks of any “items or services.” Certainly this language would be used by some to exclude coverage for contraception. Other plausible possibilities might include infertility treatment, prenatal testing, vaccination, testing for HIV/AIDS or sexually transmitted diseases, transfusions—or anything else to which someone might plausibly (or even implausibly) claim a religious or moral objection.