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NEWS

US court says employers can deny contraceptive coverage for religious reasons

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In a five to four decision, the US Supreme Court has ruled that the federal government cannot force closely held companies to cover contraceptives if the owners have religious objections.[1 2] The decision was written by Justice Samuel Alito.

Under the 2010 Affordable Care Act all health insurance plans were required to cover essential preventive services without any cost sharing requirements.

Based on the advice of the Institute of Medicine, the Obama administration ruled this requirement should include coverage for all 20 contraceptive products approved by the US Food and Drug Administration.

The Obama administration argued that since unintended pregnancies can have serious health effects for both the mother and child, access to contraceptives should be considered an essential preventive service. About half of pregnancies in the US are unintended.

However, several private companies objected to the mandate, arguing that the requirement violated their right to the free exercise of religion guaranteed by the First Amendment of the US Constitution.

One of the named plaintiffs, the Hobby Lobby, which runs a chain of 500 arts and crafts supply stores, is closely held by a family that espouses Christian beliefs.

The company's statement of purpose commits the family to "operate the company in a manner consistent with Biblical principles." The company has more than 13 000 employees, and an affiliated company, Mardel, also run by a family member, operates 35 Christian bookstores and employs close to 400 people.

Another of the main plaintiffs, Conestoga Wood Specialties, is owned by a family that belongs to the Mennonite Church, a Christian denomination that opposes abortion and holds life begins at conception. The company employs about 950 people.

Had they refused to provide contraceptive coverage, the companies faced paying a penalty of $2000 (£1170; €1460) per employee, which would have totaled $475m a year for Hobby Lobby, $33m a year for Conestoga, and $15m a year for Mardel.

In their suit, the companies cited the 1993 federal Religious Freedom Restoration Act, which requires federal laws to accommodate individual's religious beliefs unless there is a compelling state interest and then only by using the "least restrictive means" to further that interest.

In its ruling handed down on 30 June, the court ruled that in the case of "closely held corporations" the government's contraceptive mandate violated the Religious Freedom Restoration Act.

The court noted that the Department of Health and Human Services had already adopted a less restrictive means to advance its goal of expanding access to contraceptive coverage by allowing religious non-profit organizations to provide health plans that exclude contraceptive coverage from the employer's plan but requiring the insurer to provide coverage separately without charging the employer or the employees.

However, Judge Alito sought to limit the impact of his majority opinion: "This decision concerns only the contraceptive mandate and should not be understood to hold that all insurance-coverage mandates, eg, for vaccinations or blood transfusions, must necessarily fall if they conflict with an employer's religious beliefs. Nor does it provide a shield for employers who might cloak illegal discrimination as a religious practice."

1 Burwell v Hobby Lobby Stores, No 13-354.
2 Conestoga Wood Specialties v Burwell, No 13-356.

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