

## **The HHS Refusal Rule and HIV/AIDS: What Every HIV Advocate Should Know About the HHS Rule**

On December 18, 2008, the Department of Health and Human Services (HHS) issued a final rule that, in addition to posing a serious threat to women's health, significantly limits *all* patients' access to health care and important information about their health care options. This rule has serious implications for those providing HIV/AIDS services and information. The following are some facts that every HIV advocate should know about the HHS rule:

### **What Is The HHS Refusal Rule?**

The HHS rule radically rewrites laws – some of which have been on the books for over 30 years. HHS claims that it is merely educating recipients of HHS funds about their legal obligations under three federal laws: the Church Amendments, the Weldon Amendment, and the Public Health Service Act. These laws give individuals and institutions the ability to refuse to provide, or prohibit requiring the performance or participation in, abortion or sterilization services. Yet, the HHS rule dramatically expands the scope and reach of these laws beyond abortion or sterilization care. The rule prohibits entities from requiring individuals to “assist” (i.e., provide information, counseling, or referrals) in the performance of “*any* part of a health service program or research activity funded by the Department if such service or activity would be contrary to his religious beliefs or moral convictions” (emphasis added). This means that the rule is so broad that it has implications for people living with HIV/AIDS who seek health care services. In fact, the final rule even allows providers to withhold basic information from patients about their health care options – threatening the health, safety, and autonomy of all patients, including people living with HIV/AIDS.

### **What Barriers Could People Living With HIV/AIDS Face As A Result Of The HHS Rule?**

- A nurse working in a local clinic receiving Ryan White CARE Act funding may deny a patient access to an HIV or STI test, or treatment, on the basis that the nurse has a religious or moral objection to the patient's lifestyle.
- An infectious disease specialist at a community health center could refuse to make a referral to a fertility specialist for a woman with HIV facing fertility problems, but who wants to become pregnant, on the grounds that the infectious disease specialist has a moral objection to women with HIV becoming pregnant intentionally or unintentionally.

### **How Does The HHS Rule Impact People At Risk for HIV/AIDS?**

- A doctor working in a federally funded hospital could refuse to make a referral to a methadone treatment program at an outpatient substance abuse clinic for a man addicted

to heroin, on the grounds that the doctor has a moral objection to harm reduction-based methadone treatment.

### **What Else Is Wrong With The HHS Refusal Rule?**

- **The rule threatens to undermine employers' ability to protect patients while also respecting employees' religious beliefs.** For more than four decades, Title VII of the Civil Rights Act of 1964 has provided a balance of interests, giving employers leeway to take into account the effect of an employee's refusal on a patient's health care need. The final rule undermines this carefully crafted balance between the right of individuals to enjoy reasonable accommodation of their religious beliefs and the right of employers to conduct their business without undue interference.
- **The rule fails to protect patients even in emergency situations.** The rule does not adequately address employers' legal obligations to provide medical care in the case of an emergency. This failure could place patients in need of emergency medical care in grave danger and expose them to serious harm.
- **The rule threatens access to most forms of birth control.** By providing no definition of abortion, the rule gives an open invitation to any doctor, nurse, receptionist, insurance plan, or even hospital to refuse to provide access to, or information about, birth control on the grounds that they believe that contraception amounts to abortion.
- **The rule undermines the Title X family planning program,** which provides funding for STD screening and treatment, including HIV, for low-income women and men.

### **What Can HIV Advocates Do?**

- Learn more about the HHS rule by visiting the National Women's Law Center's website: <http://www.nwlc.org/hhsrule>.
- Urge President-Elect Barack Obama to reject this harmful rule immediately upon entering office by taking action: <http://action.nwlc.org/hhsruleaction>.
- Call the National Women's Law Center at (202) 588-5180, or e-mail to [info@nwlc.org](mailto:info@nwlc.org), if you have any questions or need additional information.

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