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Sotomayor stops birth control mandate

BY GREG STOHR
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Justice Sonia Sotomayor. (Photo: AP)

Jan. 1 (Bloomberg) -- The Obama administration was temporarily blocked by a U.S. Supreme Court justice from forcing an order of Catholic nuns to comply with a federal requirement to provide free contraceptive coverage for employees.

Justice Sonia Sotomayor's two-sentence order will last at least until Jan. 3, the deadline she gave the administration to respond to a bid by the Denver and Baltimore chapters

of the Little Sisters of the Poor for an exemption to the mandate. The Supreme Court released the order last night, a half hour before the mandate took effect.

The Obama administration, on the first day that health care policies took effect under the Patient Protection and Affordable Care Act, is confident its final rules strike the needed balance of providing women with free contraceptive coverage while preventing non-profit religious employers from having to provide the coverage, said an administration official who wasn't authorized to speak on the record.

The request by the nuns was one of four lodged with the court yesterday by groups claiming the administration isn't doing enough to accommodate religious objections to the contraceptive rule. The requirement stems from the 2010 Patient Protection and Affordable Care Act.

Similar ruling

A federal appeals court issued a similar ruling yesterday in a separate case. The U.S. Court of Appeals in Washington, in a 2-1 ruling, granted a request by the Roman Catholic Archbishop of Washington and the Catholic University of America among other plaintiffs for an order barring the federal government from imposing the contraceptive services requirement on them while they appeal a lower-court ruling they lost.

The Supreme Court on Nov. 26 agreed to hear two cases brought by business owners who object on religious grounds to the birth-control mandate. The lawsuits by the for-profit employers, the craft store chain Hobby Lobby Stores Inc. and Conestoga Wood Specialties Corp., will be the court's first look at President Barack Obama's biggest legislative accomplishment since a majority of the justices upheld the core of the health-care law in 2012.

Argument rejected

U.S. District Judge Amy Jackson in Washington on Dec. 20 rejected arguments by the

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Washington archbishop and the archdiocese's schools that the requirement to provide cost-free coverage for contraceptive services violates religious freedom.

In his opposition to granting the archbishop's request, Circuit Judge David S. Tatel wrote in a dissent yesterday that the archbishop is unlikely to prevail in the appeal. Like Jackson, Tatel said changes to the law have alleviated the burden that the mandate imposes on religious organizations. The church-related plaintiffs argue that availing themselves of a process to self-certify their religious objections forces them to help make birth control available.

"Simply put, far from imposing a substantial burden" on religious freedom, the challenged provision allows the archbishop and the other Catholic entities "to avoid having to do something that would substantially burden their religious freedom," Tatel said.

Divided courts

Previously, appeals courts in Chicago, Denver and Washington ruled the contraceptive mandate may violate religious freedom, while appellate panels in Philadelphia and Cincinnati had sided with the government.

Tatel was appointed by President Bill Clinton, a Democrat, while the other judges on the panel that granted yesterday's order, Karen Henderson and Janice Rogers Brown, were nominated, respectively, by George H.W. Bush and George W. Bush, both Republicans. Jackson was named to the bench by Obama, a Democrat.

The Supreme Court case is Little Sister of the Poor v. Sebelius, 13A691. The other cases are Priests for Life v. U. S. Department of Health and Human Services, 13-05368, and Roman Catholic Archbishop of Washington v. Sebelius, 13-05371, U.S. Court of Appeals for District of Columbia (Washington).

--With assistance from Margaret Talev in Washington. Editors: Fred Strasser, David Glovin

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