

By Valerie Schmalz

Grading Catholic colleges' health insurance plans

A maze of regulations and mandates, labyrinthine policies and high costs complicate Catholic colleges attempt to provide employee health insurance consistent with the faith

U.S. Catholic colleges have widely disparate levels of compliance with Church teaching when it comes to faculty and staff health insurance plans -- with some offering artificial contraception, abortion, voluntary sterilization and other procedures that conflict with Church teaching in their plans.

While Our Sunday Visitor found, in an unscientific sampling of Catholic college faculty and staff health plans, that some colleges have developed pro-life Catholic solutions, a leading advocate of faith-based health insurance said many colleges are offering benefits that undermine the Church's teaching because they adopt standard "off the shelf" insurance packages that automatically include abortion, artificial contraception and sterilization.

"I would say that most colleges are covering abortion and artificial contraception because they have not been able to find a way to economically provide insurance to their people without them," said Mike O'Dea, founder of Christus Medicus Foundation.

But it can be done, as attested by some bright spots in employee health care among the 245 degree-granting American Catholic colleges listed by the Association of Catholic Colleges and Universities.

An example of finding real-world health insurance solutions while embracing the "culture of life" is Jesuit Creighton University in Omaha, Neb. It saw health care costs drop 2.7 percent in 2008 compared with 2007, even while national health insurance rates increased between 5 and 6 percent. Nationally, health care premiums rose 86 percent from 2000 to 2007, according to Families USA.

'Conscientious choice'

Reducing costs "sounds fairly easy to do," Jeff Branstetter, Creighton's executive director of human resources, said of its faith-based and financially solvent plan. But "it is a lot of hard work. We have scars."

It was worth it. After reading the Creighton benefit plan online, including a detailed exclusion clause, O'Dea -- whose organization's motto is: "Reclaim Christ-centered health care by reforming corporate and public policy to allow God's people a 'conscientious choice' in selecting health insurance" -- was impressed. "It is a well-designed plan consistent with Catholic teaching," he said.

Benedictine College in Atchison, Kan., offers faith-based insurance via the Kansas City, Kan., archdiocese's health plan. The same is true for St. Thomas University in Miami, which receives its benefits through the Archdiocese of Miami, and "strictly adheres to the teachings of the Catholic Church in providing employee benefits," according to chief financial officer Terrence L. O'Connor.

The University of Notre Dame in South Bend, Ind., excludes all benefits that do not conform to Church teaching, said Mary Warner, benefits manager for the health and work-life program. The Catholic University of America in Washington, D.C., specifies that the insurance plan exclude benefits that conflict with Church teaching when it solicits bids for its health insurance, said Victor Nakas, the university's associate vice president for public affairs.

Unscientific survey

OSV contacted 40 of the 245 Catholic colleges in the United States. Less than 20 colleges responded to an e-mail letter inquiring about their faculty health insurance plans, including St. Vincent College in Latrobe, Pa., which "respectfully declines to participate." Jesuit Seattle University also declined to respond and several other universities did not respond after an initial response promising more information.

Some colleges and universities have uploaded their benefit plans onto their websites while many others only provide a link to a plan that requires a group number to log on to discover actual benefits. Others have nothing online.

While Creighton, headed by Jesuit Father John P. Schlegel, who left the Jesuit University of San Francisco in 2000 after serving as its president for nine years, appears fully engaged in providing health care consistent with Church teaching, some other Jesuit colleges surveyed offer benefits contrary to Church teaching. University of Scranton, for example, appears to specifically cover contraception. The University of San Francisco offers employees two health plans, both of which cover abortion, contraception and sterilization (but, see sidebar for the university's efforts to change that).

Georgetown University provides plans with and without contraception and abortion, according to Julia Green Bataille, associate vice president for communications.

Georgetown University's two plans that include abortion and artificial contraception are fully insured and therefore legally required to include state coverage guidelines, said Bataille. The District of Columbia, where Georgetown is located, does not mandate either contraception or abortion, according to a table compiled by the National Catholic Bioethics Center. Bataille said Georgetown benefit managers say because the plans are also licensed in Maryland and Virginia, states with contraceptive mandates, they must cover contraception. She did not explain why abortion is covered.

Also problematic is the Jesuit University of Scranton. One of its health insurance plans, the First Priority HMO, lists a benefit of "contraceptives when used for the purpose of birth control." The First Priority plan prohibits "elective abortion," but allows abortion in the case of rape or incest. Additionally, "therapeutic abortions are covered only when medically necessary and approved by First Priority Health's Medical Direct," according to the First Priority benefits and exclusions summary posted on the University of Scranton website. Spokesman Stan Zygmunt said both plans are self-insured, which means they are not subject to state mandates. In any case, Pennsylvania does not mandate birth control coverage, according to National Catholic Bioethics Center data.

DePaul University in Chicago covers birth control in both its fully insured HMO plan and its self-insured PPO plan and excludes "elective abortion," said spokesman John Holden, adding that the 1,800 employee-university responded to a complaint from the Equal Employment Opportunity Commission several years ago and added artificial contraception as a benefit to its Blue Cross PPO.

Christian Brothers University in Memphis, Tenn., offers employee health insurance via the Tennessee Independent Colleges and Universities Association, a consortium of Christian Bible and other private colleges and universities. Its plan excludes abortion, but probably covers artificial contraception as a prescription drug, said C. Gregg Conroy, the executive director of the TICUA Benefit Consortium.

Inadvertent coverage

O'Dea said one of the most common errors Catholic institutions make in contracting for employee health insurance is to think that a simple exclusion of "elective abortion," without further definition, is enough. Instead, he said, it creates a loophole that allows doctors to perform an abortion under any circumstance.

A better and more effective approach, for example, is that taken by Notre Dame, O'Dea said. The university's benefits manager said in an e-mail that the plan excludes: "Abortion - Services, supplies, care or treatment in connection with an abortion unless the life of the mother is endangered."

Some Catholic colleges have found themselves to be inadvertently offering unacceptable health benefits. For instance, in December 2007, Benedictine Belmont Abbey College in Belmont, N.C., discovered that its plan covered abortion, contraception and voluntary sterilization, and had for some time. The discovery came when a

faculty member reviewed the plan after the insurer changed the cost and structure of the plan. The college took immediate action to change the plan. In a letter to faculty, staff and alumni, college president William Thierfelder said: "As a Roman Catholic institution, Belmont Abbey College is not able to and will not offer nor subsidize medical services that contradict the clear teaching of the Catholic Church."

Still pending is a complaint filed by a small group of faculty members with the U.S. Equal Employment Opportunity Commission that claims the change in insurance benefits was an act of discrimination on the basis of their religion or sex, Belmont Abbey College spokesman Ed Jones told OSV.

The challenge of complying with Catholic teaching in the nitty-gritty of health insurance plans for Catholic colleges is one that requires insurance savvy, methodical persistence and a commitment to Catholic values, said Tracy Williams, president of Verus Health, a third-party administrator of health and welfare plans.

State mandates

One obstacle is that 35 states now have mandates requiring coverage of artificial contraception and most do not allow exclusions of contraceptives that are abortifacient, or cause an abortion by preventing implantation of the embryo in the wall of the uterus, said Marie Hilliard, ethicist at the National Catholic Bioethics Center in Philadelphia. Some states allow religious institutions a conscience exemption, but most do not, Hilliard said.

Colleges usually have the option of self-insuring, which means maintaining a fund to pay claims with a backup of stop-loss insurance for huge unexpected claims, under a federal law, the Employee Retirement Income Security Act of 1974, or ERISA. In most cases, that can make it possible to avoid state mandates, say some experts and college administrators. Fully insured plans are subject to state mandates, which differ from state to state, but the institution pays the premiums without the need to maintain a fund to cover health claims by its employees.

Even colleges who state they are complying with Church teaching may not be, because there are so many pieces to health insurance both in terms of government regulation and insurance company policies and procedures, Williams said. Williams said the steps include a Plan Document that is written knowledgeable enough to exclude undesirable benefits, either a third party or insurance company administrator who codes the benefit payments consistent with the plan, and vigilance about changing health care and medical advances.

"Any plan manager should be vigilant to see if there is something new approved that is not consistent with Catholic doctrine. Generally the carriers are not going to be on the lookout for that," Williams said.

"For example, there was a nonsurgical sterilization approved for women by the Federal Drug Administration," Williams said. "It was designed to be inserted into the ovaries and scar the ovaries. Now all of a sudden doctors say this is approved by the FDA. The default in most plans is that anything approved by the FDA is available for coverage."

Avoiding the many anti-life benefits that are standard in an off-the-shelf insurance package is difficult, but Creighton's Branstetter agreed with Williams' statement that it is possible to achieve a financially sound faith-based health insurance plan. Creighton has two PPOs and an HMO, and Branstetter said: "We offer a lot of tools and how to use them. I think that's really helped our cost. Not covering certain things and following Catholic doctrine has not been a negative or a driver of cost one way or another."

Bolstering identity

Catholic colleges and other religious institutions who hope to continue offering health insurance consistent with their faith should begin strengthening their religious identity, advises an attorney with an organization devoted to defending religious freedom.

"To really make a powerful argument for religious freedom and to protect its rights of conscience, it is very important that the school make its faith evident in its corporate documents and in its practices," said Gary McCaleb, senior counsel for the Alliance Defense Fund in Scottsdale, Ariz.

McCaleb said that First Amendment protection in this area is not well developed, but he believes organizations

with a strong religious identity will have a strong chance in the courts to maintain health insurance that does not pay for abortion, artificial contraception and other health insurance benefits that conflict with Church teaching.

While existing federal law allows colleges and other large organizations to write their own benefit plans without any objectionable mandates, that may change, McCaleb said.

McCaleb said ERISA, under which Catholic colleges are self-insuring, may not be a long-term solution because it is federal legislation subject to the whims of Congress: "It may only be a matter of time before someone starts tinkering with ERISA to eliminate this right of conscience."

Best defense

The best defense will be the First Amendment freedom of religion argument, McCaleb said. For that to have a strong chance in the courts, the institution has to show a clear Catholic or other religious identity, he said.

McCaleb cited cases in New York and California in which the courts required Catholic Charities to comply with state mandates for artificial contraception because he said they could not clearly show that either their employees or their clients were practicing members of the Catholic Church.

McCaleb said he is advising religious organizations to stress their faith in their corporate documents and practice.

"As you see organizations being forthright and concisely documenting the exercise of the faith and requiring the people delivering the services to be members of the faith, then you will probably see the courts being more sympathetic to the First Amendment argument," the attorney said.

Unlike years ago, McCaleb said, more and more judges have minimal knowledge of religion, so "organizations just have to work extra hard when they write their corporate bylaws -- pointing to Scripture, pointing to Church doctrine -- there are a multitude of things that should be going into the corporate documents."

"Ideally every professor should be a professing member of the faith," McCaleb said. "If you are truly a religious college then your professors should be presenting a clearly religious world view. The primary administrative and teaching positions should be held by members of the faith if you want the fullest protection of the First Amendment."

Valerie Schmalz is an OSV contributing editor.

© 2011 Our Sunday Visitor, Inc. All rights reserved.