

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

REV.MR. (DEACON) GREGORY E.
HALL AND AMERICAN MFG
COMPANY,

Civil No. 13-0295 (JRT/LIB)

Plaintiffs,

v.

PRELIMINARY INJUNCTION

KATHLEEN SEBELIUS, *in her official capacity as Secretary of the United States Department of Health and Human Services*,
SETH D. HARRIS, *in his official capacity as Acting Secretary of the United States Department of Labor and his successor*,
NEIL WOLIN, *in his official capacity as Acting Secretary of the United States Department of the Treasury and his successor*, UNITED STATES
DEPARTMENT OF HEALTH AND
HUMAN SERVICES, UNITED STATES
DEPARTMENT OF LABOR AND
UNITED STATES DEPARTMENT OF
THE TREASURY,

Defendants.

Thomas Mathews, **HUGHES MATHEWS, PA**, 110 Sixth Avenue South, Suite 200, St. Cloud, MN 56301; Erick Kaardal, **MOHRMAN & KAARDAL, P.A.**, 33 South Sixth Street, Suite 4100, Minneapolis, MN 55402, for plaintiffs.

Ann Bildtsen, Assistant United States Attorney, **OFFICE OF THE UNITED STATES ATTORNEY**, 300 South Fourth Street, Suite 600, Minneapolis, MN 55415; Bradley Philip Humphreys, **UNITED STATES DEPARTMENT OF JUSTICE**, 20 Massachusetts Avenue NW, Washington, DC 20530, for defendants.

Plaintiffs have filed a motion for preliminary injunction and stay [Docket No. 6] in the above-referenced case. The Plaintiffs have filed a Local Rule 7.1 meet-and-confer

statement indicating an agreement between the parties on the Plaintiffs' proposed order.

Defendants have filed a Notice of Non-Opposition to the Motion [Docket No. 10].

Based on these filings, Defendants are preliminarily enjoined until thirty days after the mandate issues from the Eighth Circuit in *O'Brien v. U.S. Dep't of Health & Human Servs.*, No. 12-3357, or *Annex Medical, Inc. v. Sebelius*, No. 13-1118, whichever occurs first, from enforcing the contraceptive coverage requirement under 42 U.S.C. § 300gg-13(a)(4) and its implementing regulations¹ against plaintiffs or any health insurance issuer when offering any group health insurance coverage to American Manufacturing Company ("AMC") without coverage for "All Food and Drug Administration approved contraceptive methods, sterilization procedures, and patient education and counseling for all women with reproductive capacity," as prescribed by a health care provider. *See* HRSA, Women's Preventive Services: Required Health Plan Coverage Guidelines, available at <http://www.hrsa.gov/womensguidelines> (August 1, 2011), attached as Exhibit A hereto.²

¹ 75 Fed. Reg. 41,726, 41,728 (July 19, 2010) (interim final rules with request for comments); 76 Fed. Reg. 46,621, 46,621-26 (Aug. 3, 2011) (interim final rules with request for comments); 77 Fed. Reg. 8725, 8725-30 (Feb. 15, 2012) (final rules).

² The U.S. Food and Drug Administration has approved currently the following contraceptive methods and sterilization procedures for women: female condom; diaphragm with spermicide; sponge with spermicide; cervical cap with spermicide; spermicide alone; oral contraceptives (combined pill) ("the Pill"); oral contraceptives (Progestin-only) ("the Mini Pill"); oral contraceptives (extended/continued use) ("the Pill"); patch; vaginal contraceptive ring; shot/injection; Plan B, Plan B One-Step and Next Choice; Ella; Copper IUD; IUD with progestin; implantable rod; sterilization surgery for women and sterilization implant for women. *See* U.S. FDA Birth Control Guide, available at <http://www.fda.gov/downloads/ForConsumers/ByAudience/ForWomen/FreePublications/UCM282014.pdf> (updated August 2012), attached as Exhibit B hereto.

Further, if AMC adopts a self-insured plan under the Employee Retirement Income Security Act of 1974 (ERISA), which must also comply with the requirements of 42 U.S.C. § 300gg-13(a)(4) and its implementing regulations, Defendants are preliminarily enjoined until thirty days after the mandate issues from the Eighth Circuit in *O'Brien* or *Annex Medical*, whichever occurs first, from enforcing the contraceptive coverage requirement under 42 U.S.C. § 300gg-13(a)(4) and its implementing regulations against plaintiffs or any third party administrator when administering any self-insured plan for AMC without coverage for “All Food and Drug Administration approved contraceptive methods, sterilization procedures, and patient education and counseling for all women with reproductive capacity,” as prescribed by a health care provider. Ex. A.³

All proceedings in this case are stayed pending resolution of the appeal in either *O'Brien* or *Annex Medical*, whichever occurs first.

DATED: April 2, 2013
at Minneapolis, Minnesota.

s/John R. Tunheim
JOHN R. TUNHEIM
United States District Judge

³ See Note 2, *supra*.