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Insurance Coverage of Contraceptives

Background

Contraception is crucial for helping women avoid unintended pregnancies, and it has myriad health, social and economic benefits. Since the mid-1990s, 28 states have required health insurance plans regulated by the state that provide coverage of prescription drugs and devices to also cover prescription contraceptives.

Federal law, under a provision of the Affordable Care Act of 2010, expanded on these state policies in several ways. The federal contraceptive coverage guarantee applies to most private health plans nationwide, whether sold to employers, schools or individuals, or whether offered by employers that self-insure. (An employer that self-insures shoulders the financial risks for health care costs for its employees. State laws cannot regulate self-insured employers, which cover about 60% of insured workers nationwide.)

In addition, the federal guarantee specifically requires coverage for 18 methods of contraception used by women (including female sterilization), along with related counseling and services, and it requires this coverage to be provided without any out-of-pocket costs to the patient, such as copayments or deductibles. The federal guarantee does not require similar coverage for vasectomy or male condoms. Under the guarantee, health plans may apply formularies, prior authorization requirements and similar restrictions within a method category (e.g., to encourage patients to choose one hormonal IUD over another), but they may not favor one type of method over another (e.g., oral contraceptives over contraceptive rings).

More recently, some states have amended and expanded their own requirements to match the standard set in the federal guarantee, specifically requiring coverage for the full range of contraceptive methods, counseling and services used by women; eliminating out-of-pocket costs; and limiting other health plan restrictions. Some of these new state provisions go beyond the federal guarantee by requiring coverage for contraceptive methods that are available over the counter without requiring the patient to first obtain a prescription, ensuring that women may receive an extended supply of a method at one time (usually a one-year supply, rather than a typical one- or three-month supply), or requiring coverage of male sterilization without out-of-pocket costs.

In October 2017, the Trump administration made it much easier for an employer to exclude contraceptive coverage from any health plan it offers to its employees and their dependents. One regulation allows any employer—nonprofit or for-profit—to exclude some or all contraceptive methods and services from the health plans it sponsors if the employer has religious objections. Another regulation allows employers with moral objections to do the same, although it applies to a slightly narrower set of employers (any employer that is not a publicly traded company). Enforcement of these regulations has been blocked by the courts. Previous federal regulations are in effect that offer an exemption for a much narrower set of explicitly religious employers and provide an “accommodation” for other nonprofit and closely held for-profit employers with religious objections that allows them to avoid paying or arranging for contraceptive coverage while still ensuring that employees and dependents receive coverage seamlessly from the same insurance company. Most of the state laws that expand contraceptive coverage offer exemptions as well, although few of them are as broad as the blocked federal exemption.

Highlights

- Federal law requires health insurance coverage for the full range of contraceptive methods used by women, including counseling and related services, without out-of-pocket costs.
 - This mandate applies to 18 specific methods delineated by the U.S. Food and Drug Administration (FDA), which includes female sterilization and methods available over the counter (when obtained with a prescription).
 - Federal law allows for a "broader" refusal clause that allows churches, associations of churches, religiously affiliated elementary and secondary schools, and, potentially, some religious charities and universities to refuse; hospitals are not allowed to refuse.
- 29 states and the District of Columbia require insurers that cover prescription drugs to provide coverage of FDA-approved prescription contraceptive drugs and devices.
 - 12 states and the District of Columbia require coverage of methods received over the counter; the insurer may still require the enrollee to obtain a prescription.
 - 20 states and the District of Columbia require insurers to cover an extended supply of contraceptives at one time.
 - 8 states require coverage of male sterilization, and 14 states and the District of Columbia require coverage of female sterilization.
- 16 states and the District of Columbia prohibit cost sharing for contraceptives.
- 9 states and the District of Columbia prohibit restrictions and delays by insurers, or the use of medical management techniques that restrict access to contraceptives.
- 20 states and the District of Columbia allow certain employers and insurers to refuse to comply with the contraceptive coverage mandate; 8 states do not permit refusal by any employers or insurers.
 - 3 states include a limited refusal clause that allows only churches and church associations to refuse to provide coverage and does not permit hospitals or other entities to do so.
 - 7 states include a broader refusal clause that allows churches, associations of churches, religiously affiliated elementary and secondary schools, and, potentially, some religious charities and universities to refuse; hospitals are not allowed to refuse.
 - 7 states and the District of Columbia include an expansive refusal clause that allows religious organizations, including at least some hospitals, to refuse to provide coverage. (An additional state, Nevada, does not exempt any employers but allows religious insurers to refuse to provide coverage; two other states exempt both insurers and employers.)
 - 2 states include an almost unlimited refusal clause that allows religious and secular organizations to refuse to provide coverage.
 - 15 of the 20 states with exemptions and the District of Columbia require employees to be notified if their health plan does not cover contraceptives.

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Jurisdiction	Coverage required for:					Prohibits cost sharing	Prohibits restrictions and delays	Refusal provisions	
	Prescription methods	Over-the-counter methods	Extended supply	Male sterilization	Female sterilization			Scope	Enrollees notified by
Federal	X	X			X	X		Broader§	
Arizona	X							Expansive	Employer
Arkansas	X							Broader	
California	X ^β	X (excludes male condoms)	X		X	X	X	Limited	Employer
Colorado	X ^β		X						
Connecticut	X	X	X		X	X		Expansive*, †	Insurer
Delaware	X	X (excludes male condoms)	X		X	X	X	Expansive	Employer
District of Columbia	X ^β	X	X		X	X	X	Expansive [£]	Employer
Georgia	X								
Hawaii	X ^θ		X					Expansive†	Employer
Illinois	X	X (excludes male condoms)	X	X	X	X	X	Almost unlimited‡	
Iowa	X								
Maine	X		X		X	X		Broader	Employer
Maryland	X ^β	X (drugs only)	X	X		X		Expansive	Employer
Massachusetts	X	X (excludes male condoms)	X		X	X		Broader	Employer
Michigan	X							Broader	
Missouri	X							Almost unlimited†, ‡	Insurer
Montana	X								
Nevada	X	X (only EC)	X		X	X	X	Expansive‡	Insurer
New Hampshire	X ^θ		X			X			
New Jersey	X	X (excludes condoms)	X	X	X	X		Broader	Employer
New Mexico	X ^β	X	X	X	X	X	X	Expansive	
New York	X	X	X	X	X	X	X	Limited†	Employer/ insurer
North Carolina	X							Broader	Insurer
Ohio			€						
Oregon	X ^θ	X (excludes condoms)	X	X	X	X	X	Limited	
Rhode Island	X		X					Broader	Employer
Tennessee ^θ									
Texas**									
Utah	β								
Vermont	X		X	X	X	X	X		
Virginia	X		X [€]		X	X			
Washington	X ^β	X	X	X	X	X	X		
West Virginia ^θ	X		X					Expansive†	Insurer
Wisconsin	X								
TOTAL	29 + DC	12 + DC	20 + DC	8	14 + DC	16 + DC	9 + DC	20 + DC	15 + DC

Note: EC=emergency contraception.

§ Regulations that offered an almost unlimited religious and moral exemption are currently blocked by the courts.

‡ Refusal clause applies to insurers.

β The state allows pharmacists to prescribe and dispense contraceptives, but insurance coverage of these services is not explicitly included in the law.* Religious insurers are not exempt from the mandate but may provide contraceptive coverage through a subcontract with another insurer or third-party entity.

† Enrollees have the option of obtaining coverage directly from insurer.

€ The state's law allows pharmacists to dispense the full amount of a prescription at one time, including contraception, but there is no requirement that health insurance plans cover the cost of accessing a year's worth of contraceptives at one time.

⊖ The state explicitly includes coverage for contraception that is prescribed and dispensed by a pharmacist.

** Employers must be offered the option to include coverage of contraceptives within the health plan.
