

FACT SHEET

Contraceptive Coverage in the Health Care Law: Frequently Asked Questions

September 2014

The health care law makes preventive care more accessible and affordable to millions of Americans. This is especially important to women, who – prior to the Affordable Care Act – were more likely than men to avoid needed health care because of cost. To help address these cost barriers and make sure all women have access to preventive health care, the health care law requires private insurance plans to cover a wide range of preventive services, including an annual well-woman visit, breastfeeding equipment and support, mammograms, pap-smears, smoking cessation, and contraceptives, without co-payments or other cost sharing requirements.¹

States Are Banning Abortion Outright, in an Attempt to Overturn Roe v. Wade

I heard that plans are now required to cover birth control for free. Is that true?

The health care law requires certain preventive health services and screenings to be covered in health insurance plans without cost sharing, meaning that you will not be charged a co-payment for the services and the costs of the services will not be applied to your deductible. These requirements have been in effect for most plans since January 1, 2013.

The list of covered preventive services is extensive and includes birth control alongside other women's preventive services. For more information on the preventive health services generally, please see Women's Preventive Services in the Affordable Care Act: Frequently Asked Questions.

The bottom line: If you have health insurance through your job, your parents, or your spouse, your birth control should be covered without co-pay (note: there are a few exceptions to this, which are explained further below).

Does this mean I won't have to pay anything for my birth control?

You will be able to get your birth control at no out-of-pocket costs, as the full cost will be covered by your monthly premium.*

The bottom line: Whether you go to your in-network pharmacy to pick up your pills or visit your health care provider for a contraceptive, you should not have to pay anything at that time.

What types of birth control are now covered with no cost sharing?

The full range of FDA-approved contraceptive methods, including oral contraceptives (the pill), injectables, the

ring, contraceptive implants, diaphragms, cervical caps, and non-surgical permanent contraceptives are covered.* Sterilization for women is also covered. For greater detail and further explanation, please see the Department of Health and Human Services' "Frequently Asked Questions" and our explanation here.

The bottom line: Whatever method of contraception you and your provider decide is right for you, that method should be covered by your plan without a co-pay.

Won't this make my monthly premiums go up?

While we can't say for certain, there is strong evidence that covering contraceptives actually produces cost savings, because the cost of covering maternity, infant, and dependent care is more expensive than the cost of covering family planning services. According to the National Business Group on Health, a non-profit organization representing employers' perspectives on national health policy issues, the cost of adding contraceptive coverage to a health plan is more than made up for in expected cost savings.² And when contraceptive coverage was added to the federal employee plan, premiums did not increase because there was no resulting health care cost increase.³

The bottom line: Adding contraceptives to insurance plans saves money.

I get health insurance through my employer. How do I know if these requirements apply to my plan?

If your plan existed before the health care law passed (March 2010) and has not made certain significant changes since then, it might be considered "grandfathered." Grandfathered plans don't have to give you this benefit, so you might not get it right away.

But eventually all plans will lose their grandfathered status and will be required to cover contraception without cost sharing. The latest figures show that only 36% of workers with employer-based insurance are still in a grandfathered plan.⁴

The best way to find out the specifics of your plan is to call your insurance company. For guidelines on how to do so, please visit [How To Find Out If Your Health Plan Is Covering Women's Preventive Services with No Co-Pay, as Required by the Health Care Law](#).

The bottom line: Unless your plan is grandfathered, you should be getting birth control without a co-pay.

What about women who are students and enrolled in a student health plan?

Student health plans must comply with the requirement and offer the preventive health services, including contraceptive coverage, without cost-sharing.⁵ The only plans excepted are self-funded student health plans.⁶

The bottom line: If you have health insurance through your school, your birth control should be covered without co-pay.

What about women on Medicaid?

Prior to the health care law, Medicaid already prohibited co-pays for contraceptives, although states did not cover every method for every eligible individual.⁷ Under the ACA, states can expand their Medicaid program and the ACA's preventive health service requirements apply to this expanded program. Therefore, for women who are now eligible for the expanded Medicaid program have access to the full range of FDA-approved methods without co-pay.⁸

The bottom line: If you have health insurance through Medicaid, you should have access to birth control without a co-pay.

What if I work for an employer with religious beliefs against birth control or go to school at a religiously-affiliated university?

Some religious employers, such as churches and other houses of worship, do not have to include birth control coverage in their health insurance plans.

A non-profit organization, like a religiously-affiliated university that holds itself out as religious and certifies its religious objections to birth control, can opt out of including birth control in its health plan, but women employees or students still get the birth control coverage. They just get it directly from the insurance company.

The U.S. Supreme Court recently ruled that certain family-owned, “closely-held” for-profit corporations with religious objections to birth control coverage can refuse to provide birth control coverage. If you work for a for-profit company that objects to providing birth control coverage, the Supreme Court’s decision means that your employer may not have to provide this coverage to you. If your employer takes away birth control coverage, you must receive notice of this change in your benefits.

The bottom line: There are special rules for certain employers and schools that have religious objections to birth control. Check out our [resource](#) on those rules for more information.

If you believe your health plan has not implemented the contraceptive coverage requirement appropriately, please contact us at coverher.org.

For more information on contraceptive coverage please visit www.nwlc.org/contraceptivecoverage.

* Insurance companies do have some flexibility in implementing this new requirement, like being able to charge a co-payment for a brand name drug if a generic equivalent exists.

- 1 Patient Protection and Affordable Care Act, 42 U.S.C. § 300gg-13 (2010).
- 2 KP Campbell, Nat’l Bus. Group on Health, *Contraceptive Use Evidence-Statement: Counseling and Preventive Intervention*, in A Purchaser’s Guide to Clinical Preventive Services: Moving Science into Coverage (KP Campbell et al. ed., 2006).
- 3 When the FEHBP contraceptive coverage requirement was implemented, the Office of Personnel Management (OPM), which administers the program, arranged with the health carriers to adjust the 1999 premiums in 2000 to reflect any increased insurance costs due to the addition of contraceptive coverage. But OPM found that no such adjustment was necessary, and reported that “there was no cost increase due to contraceptive coverage.” Letter from Janice R. Lachance, Dir., U.S. Office of Pers. Mgmt. (Jan. 16, 2001) (on file with NWLC).
- 4 See Kaiser Family Found., *Employer Health Benefits 2013 Annual Survey: Grandfathered Health Plans*, at 196, available at <http://kaiserfamilyfoundation.files.wordpress.com/2013/08/8465-employerhealth-benefits-20132.pdf>.
- 5 Student Health Insurance Coverage, 45 C.F.R. § 147.145 (2012).
- 6 While for most university health plans the student contracts directly with the health insurance company for insurance, a very small number of universities provide self-funded health plans to students. Such self-funded student plans are not considered individual health insurance and are not covered by the preventive services rule.
- 7 Kaiser Family Found. & Guttmacher Inst., *Medicaid’s Role in Family Planning* (2007), available at http://www.kff.org/womenshealth/upload/7064_03.pdf.
- 8 The Supreme Court held in its decision on the Affordable Care Act that states need not participate in the expansion of Medicaid as a condition of continuing to receive their current Medicaid funding. *Nat’l Fed’n of Indep. Bus. et al. v. Sebelius*, 567 U.S. ___, 132 S. Ct. 2566 (2012).

- 1 *Laws Affecting Reproductive Health and Rights: 2013 State Policy Review*, GUTTMACHER INSTITUTE, <http://www.guttmacher.org/statecenter/updates/2013/statetrends42013.html>.
- 2 H.B. 1456, 63d Leg. Assemb., Reg. Sess. (N.D. 2013) (to be codified as N.D. CENT. CODE. § 14-02.1 (2013)).
- 3 S.B. 134, 89th Gen. Assemb., Reg. Sess. (Ark. 2013) (to be codified as ARK. CODE ANN. § 20-16-13 (2013)).
- 4 The Supreme Court has said states may not ban abortion prior to viability. See, e.g., *Planned Parenthood of S.E. Pa. v. Casey*, 505 U.S. 833, 846 (1992).
- 5 *Edwards v. Beck*, No. 4:13CV00224 SWW, 2013 WL 2302323, at *5 (W.D. Ark. May 23, 2013).
- 6 *MKB Mgmt. Corp., v. Burdick*, No. 1:13-cv-071, at *21 (D. N.D. July 22, 2013) (order granting preliminary injunction).
- 7 H.B. 1037, 89th Genn. Assemb., Reg. Sess. (Ark. 2013) (to be codified as ARK. CODE ANN. § 20-16-1305 (2013)); H.B. 2368, 63d Leg. Assemb., Reg. Sess. (N.D. 2013) (to be codified as N.D. CENT. CODE. §§ 14-02.1-01, 14.02.1-02, 14.02.1-07 (2013)).
- 8 H.B. 2, 83d Leg. Sess., 2d Spec. Sess. (Tex. 2013).
- 9 In addition to prohibiting states from banning abortion prior to viability, the Supreme Court has also said that states may not draw a line at a particular gestational age to establish viability because viability is a matter of judgment of the attending physician. See, e.g., *Central Mo. v. Danforth*, 428 U.S. 52, 64–65 (1976). Although a state may ban abortion after viability, any such ban must make an exception when a woman's life or health is at risk. *Roe v. Wade*, 410 U.S. 113, 164–65 (1973). Where these bans on later abortion have been challenged in court, they have been held unconstitutional. *Paul A. Isaacson, M.D. et al. v. Tom Horne, Attorney General of Arizona, et al.* 716 F.3d 1213 (2013); *McCormack v. Hiedeman*, 900 F. Supp. 2d 1128 (D. Idaho 2013); *Lathrop, et al. v. Deal, et al. No. CV224423, (Sup. Ct. of Fulton Cnty., Ga., Dec. 21, 2012)*. The U.S. Supreme Court recently refused to hear an appeal of the Arizona case, leaving in effect the ruling from the appellate court striking down the law as unconstitutional.
- 10 *State Policies in Brief: State Policies on Later Abortions*, GUTTMACHER INSTITUTE, Jan. 1, 2014, http://www.guttmacher.org/statecenter/spibs/spib_PLTA.pdf.
- 11 In New Mexico, where a ban on later abortions failed in the legislature, abortion opponents attempted to pass such a ban in Albuquerque through an initiative on the November 2013 city ballot. Voters overwhelmingly rejected this unconstitutional attempt at interfering in a women's personal decisionmaking. See *Fernanda Santos, Albuquerque Voters Defeat Anti-Abortion Measure*, N.Y. TIMES, Nov. 20, 2013, available at <http://www.nytimes.com/2013/11/20/us/albuquerque-voters-defeat-anti-abortion-referendum.html>.
- 12 N.D. S. Con. Res. 4009, 63d Leg. Assemb., Reg. Sess. (2013). In 2013, Kansas adopted a "fetal personhood" statement, but it currently has no legal effect. H.B. 2253, 85th Leg., Reg. Sess. (Kan. 2013).
- 13 Colorado voters in 2014 will face a similar "fetal personhood" ballot initiative, but the process did not go through the legislature like in North Dakota. This will be the third time Colorado voters will face such a measure.
- 14 *Rights at Risk: The Truth About Prenatal Personhood*, CENTER FOR REPRODUCTIVE RIGHTS, 2012, http://reproductiverights.org/sites/crr.civicactions.net/files/documents/crr_PersonhoodPapers_BriefingPaper.pdf.
- 15 Mississippi voters rejected a "fetal personhood" measure in 2011, while Colorado voters have twice overwhelmingly voted down such measures, once in 2008 and again in 2010. See, e.g., *Mississippi "Personhood Amendment" Fails at Polls*, CBS NEWS, Nov. 8, 2011, http://www.cbsnews.com/8301-250_162-57321126/mississippi-personhood-amendment-fails-at-polls/.
- 16 S.B. 371, 118th Gen. Assemb., 1st Reg. Sess. (Ind. 2013) (to be codified as IND. CODE. § 16-34-2-1.1 (2013)); S.B. 206, 2013 Reg. Sess. (Wis. 2013).
- 17 *State Policies in Brief: Requirements for Ultrasound*, GUTTMACHER INSTITUTE, Jan. 1, 2014, https://www.guttmacher.org/statecenter/spibs/spib_RFU.pdf.
- 18 H.B. 57, 2013 Reg. Sess. (Ala. 2013); S.B. 371, 118th Gen. Assemb., 1st Reg. Sess. (Ind. 2013); S.B. 353, Gen. Assemb., 2013 Sess. (N.C. 2013); S.B. 2305, 63d Leg. Assemb., Reg. Sess. (N.D. 2013) (to be codified as N.D. CENT. CODE. §§ 14-02.1-04(1) (2013)); H.B. 59, 130th Gen. Assemb., Reg. Sess. (Ohio 2013); H.B. 2, 83d Leg. Sess., 2d Spec. Sess. (Tex. 2013); S.B. 206, 2013 Reg. Sess. (Wis. 2013). Also in 2013, the Virginia Department of Health finalized regulations to implement a 2011 law targeting abortion providers.
- 19 Associated Press, *Legal Woes for Mississippi's Only Abortion Clinic*, USA TODAY, Jan. 11, 2013, <http://www.usatoday.com/story/news/nation/2013/01/11/abortion-mississippi-women-clinic/1828289>. A judge prevented the law from going into effect while the lawsuit proceeds. See Press Release, Center for Reproductive Rights, *Federal Judge Blocks All Enforcement of Mississippi Admitting Privileges Requirement* (Apr. 15, 2013), <http://reproductiverights.org/en/press-room/federal-judge-blocks-all-enforcement-of-mississippi-admitting-privileges-requirement>.
- 20 *Planned Parenthood v. Bentley*, No. 2:13cv405-MHT (M.D. Ala. 2013); *MKB Management Corp d/b/a Red River Women's Clinic, Tammi Kromenaker, Kathryn Eggleston, M.D., v. Birch Burdick and Terry Dwelle, M.D.* No. 09-2011-CV-02205 (E.C.D. N.D. 2013); *Planned Parenthood v. Hollen*, No. 13-cv-465-wmc (W.D. Wis. 2013).
- 21 *Planned Parenthood v. Bentley*, No. 2:13cv405-MHT, at *21 (M.D. Ala. 2013); *Planned Parenthood v. Hollen*, No. 13-cv-465-wmc, at *18, n.12 (W.D. Wis. 2013) (both citing *Jackson Women's Health Org. v. Currier*, 2013 WL 1624365, at *5 (S.D. Miss. Apr. 15, 2013)).
- 22 *MKB Management Corp d/b/a Red River Women's Clinic, Tammi Kromenaker, Kathryn Eggleston, M.D., v. Birch Burdick and Terry Dwelle, M.D.* No. 09-2011-CV-02205, at *12 (E.C.D. N.D. 2013).
- 23 *Planned Parenthood of Greater Tex. Surgical Health Servs. v. Abbott*, No. 1:13-CV-862-LY at *11 (W.D. Tex. Oct. 28, 2013) (order granting preliminary injunction); *Planned Parenthood of Greater Tex. Surgical Health Servs. v. Abbott*, No. 12-51008 (5th Cir. Oct. 31, 2013) (order staying/granting stay of preliminary injunction pending appeal); *Planned Parenthood of Greater Tex. Surgical Health Servs. et al. v. Abbott, et al.* No. 13A452 (U.S. Nov. 19, 2013) (order denying vacate to stay).
- 24 Press Release, Center for Reproductive Rights, *U.S. Supreme Court Refuses to Reinstate Injunction Blocking Texas Law That Has Halted Abortion Services at More Than a Dozen Clinics Across the State* (Nov. 19, 2013), <http://reproductiverights.org/en/press-room/us-surpreme-court-refuses-to-reinstate-injunction-blocking-texas-law>.
- 25 *Planned Parenthood of Ind. v. Comm'r, Ind. State Dep't of Health, et al.* No. 1:13-cv-1355-JMS-MJD, (S.D. Ind. Nov. 26, 2013) (order granting preliminary injunction).
- 26 *State Policies in Brief: Targeted Regulation of Abortion Providers*, GUTTMACHER INSTITUTE, Jan. 1, 2014, http://www.guttmacher.org/statecenter/spibs/spib_TRAP.pdf.
- 27 H.B. 1100, 89th Gen. Assemb., Reg. Sess. (Ark. 2013) (to be codified as ARK. CODE. § 23.79.1 (2013)); S.B. 353, Gen. Assemb., 2013 Sess. (N.C. 2013); H.B. 818, 2013 Reg. Sess. (Pa. 2013); H.B. 1900, 2013 Reg. Sess. (Va. 2013) (to be codified as VA. CODE ANN. § 38.2-3457 (2013)).
- 28 Michigan "No Taxes for Abortion" Initiative Petition (passed legislature Dec. 11, 2013).
- 29 *State Bans on Insurance Coverage of Abortion Are Sweeping the Nation, Endangering Women's Health and Taking Health Benefits Away from Women*, NATIONAL WOMEN'S LAW CENTER, Dec. 12, 2013, <http://www.nwlc.org/resource/state-bans-insurance-coverage-abortion-are-sweeping-nation-endangering-women%E2%80%99s-health-and-t>.
- 30 *Memo on Private Insurance Coverage of Abortion*, GUTTMACHER INSTITUTE, Jan. 19, 2011, <http://www.guttmacher.org/media/inthenews/2011/01/19/index.html>.
- 31 S.F. 446, 85th Gen. Assemb., Reg. Sess. (Iowa 2013).
- 32 H.B. 57, 2013 Reg. Sess. (Ala. 2013); S.B. 371, 2013 1st Reg. Sess. (Ind. 2013); S.B. 90, 2013 Reg. Sess. (La. 2013); S. B. 2795, 128th Leg., Reg. Sess. (Miss. 2013); H.B. 400, 97th Gen. Assemb., 1st Reg. Sess. (Mo. 2103); S.B. 353, Gen. Assemb., 2013 Sess. (N.C. 2013); H.B. 2, 83d Leg. Sess., 2nd Spec. Sess. (TEX. 2013). Also in 2013, the Iowa Board of Medicine adopted regulations banning the use of telemedicine for medication abortion.

33 *State Policies in Brief: Medication Abortion*, GUTTMACHER INSTITUTE, Jan. 1, 2014, http://www.guttmacher.org/statecenter/spibs/spib_MA.pdf

34 H.B. 1237, 88th Leg. Assemb. (S.D. 2013).

35 S.D. CODIFIED LAWS § 34-23A-56 (2011).

36 *State Policies in Brief: Counseling and Waiting Periods for Abortion*, GUTTMACHER INSTITUTE, Jan. 1, 2014,

www.guttmacher.org/statecenter/spibs/spib_MWPA.pdf.

37 H.B. 2253, 2013 Leg., Reg. Sess. (Kan. 2013); S.B. 353, Gen. Assemb., 2013 Sess. (N.C. 2013); H.B. 1305, 63rd Leg. Assemb., Reg. Sess. (N.D. 2013) (to be codified as N.D. CENT CODE. § 14-02.1-02 (2013)).

38 In addition to Kansas, North Carolina, and North Dakota, the states are Arizona, Illinois, Oklahoma, and Pennsylvania. ARIZ. REV. STAT. ANN. § 13-3603.02 (2011) (West); 720 ILL. ANN. STAT. 510/6(8); OKL. STAT. ANN. tit. 63, § 1-7312 (West 2012); 18 PA. C.S.A. §3204.

39 See *Whren v. United States*, 517 U.S. 806, 813 116 S. Ct. 1769, 1770, 135 L. Ed. 2d 89 (1996) (noting that “the Constitution prohibits selective enforcement of the law based on considerations such as race.”).

40 S.B. 353, Gen. Assemb., 2013 Sess. (N.C. 2013).

41 *Health Care Refusals Harm Patients: The Threat to Reproductive Health Care*, NATIONAL WOMEN’S LAW CENTER, Jan. 25, 2013,

<http://www.nwlc.org/resource/health-care-refusals-harm-patients-threat-reproductive-health-care>.