

FACT SHEET

Guaranteeing Contraceptive Coverage In All New Health Insurance Plans

Under the new health care law that went into effect in September, all new health insurance plans are required to cover certain preventive health care services, including mammograms, smoking cessation treatment, and folic acid, among others, and provide them to patients with no co-pay

The law also requires the Department of Health and Human Services to identify additional preventive health services for women that should be covered and provided to patients with no co-pay. The Department has asked the Institute of Medicine, an organization that provides authoritative, unbiased advice to decision makers on health and medical issues, to review the available evidence and recommend the additional preventive health services for women that should be included.

Contraception is critical preventive health care for women and should be covered as part of a woman's preventive health benefits.

Contraception is Critical Preventive Health Care for Women

- Contraceptive use is nearly universal among women of reproductive age in the United States. Most women have the biological potential for pregnancy for over 30 years of their lives, and for approximately three-quarters of her reproductive life, the average woman is trying to postpone or avoid pregnancy.
- Planned pregnancies—which for most women require contraception—improve women's health. The ability to determine the timing of a pregnancy can prevent a range of pregnancy complications that can endanger a woman's health, including gestational diabetes, high blood pressure, and placental problems, among others.¹
- An unintended pregnancy may have significant implications for a woman's health. A preexisting health condition such as diabetes, hypertension, reflux esophagitis, lower extremity or lumbar arthritis, and coronary artery disease, may be worsened by a pregnancy.²
- Contraception is critical to helping women achieve healthy pregnancies. Women who wait for some time after delivery before conceiving their next child lower their risk of adverse perinatal outcomes, including low birth weight, preterm birth, and small-for-size gestational age.³ And a planned pregnancy affords women an opportunity to make behavioral changes that lead to better birth outcomes.⁴
- Many contraceptives have significant preventive benefits beyond their contraceptive benefits. Oral contraceptives, for example, lower rates of pelvic inflammatory disease, cancers of the ovary and endometrium, recurrent ovarian cysts, benign breast cysts, and fibroadenomas.⁵

Congress Intended the Law to Require All New Insurance Plans to Guarantee Coverage of Contraceptives

- During Senate debate on the Women's Health Amendment, Senator Barbara Mikulski, the amendment's sponsor, stated that family planning was among the services her amendment was intended to include.⁶

- Several other Senators, including Senators Boxer, Gillibrand, Cardin, and Feinstein, echoed Senator Mikulski's statements.⁷
- A letter signed by dozens of House members to the Secretary of Health and Human Services stated that their "intent was to address gaps in USPSTF recommendations for preventive care ... [w]omen should receive all of the appropriate preventive care, at no additional cost, necessary to lead long and healthy lives, such as ... family planning services that include contraception."

There is Substantial Precedent in Federal Law to Guarantee Coverage of Contraception as Part of Preventive Health Care

- For nearly four decades, Medicaid has covered family planning services and supplies and provided them to low-income women without co-payments.
- The federal law governing Health Maintenance Organizations (HMOs) defines "family planning services" as a "preventive service" that all HMOs must cover.⁸
- The Department of Health and Human Services recently issued a final regulation implementing a law those allowing states to design alternative Medicaid benefit packages and included "family planning services and supplies and other appropriate preventive services" among the services that must be covered.⁹
- Ten years ago next month, the Equal Employment Opportunity Commission issued an interpretation of the federal civil rights law that prohibits discrimination in employment, stating that it is sex discrimination for employer-sponsored health insurance plans to provide coverage of other prescription drugs and preventive services but fail to provide coverage of contraceptives: "[b]ecause Respondents have treated contraception differently from preventive treatments and services for other medical conditions, they have discriminated on the basis of pregnancy."¹⁰

Public Health and Medical Experts Agree that Contraception Is A Key Part of Preventive Health Care for Women

- A consensus study panel convened by the Institute of Medicine in 1995 to address unintended pregnancy recommended that financial barriers to contraception be reduced by "increasing the proportion of all health insurance policies that cover contraceptive services and supplies ... with no copayments or other cost-sharing requirements, as for other selected preventive health services."¹¹
- The Centers for Disease Control and Prevention named family planning one of the ten most important public health achievements of the 20th century because of its contribution to "the better health of infants, children, and women."¹²
- Contraceptive use is already one of the cornerstones of Healthy People 2010, the nation's agenda for promoting health and preventing disease.¹³
- The National Business Group on Health, a non-profit organization representing large employers' perspectives on national health policy issues, conducted a comprehensive review of available evidence and recommends a clinical preventive service benefit design that includes all FDA-approved prescription contraceptive methods at no cost-sharing.¹⁴

Guaranteeing Contraceptive Coverage As Part of Preventive Care Would Be A Major Advance for Women

- Women are more likely than men to avoid needed health care, including preventive care, because of cost.

Nearly half (45%) of women delayed or did not receive a cancer screening or dental exam because of its cost, as opposed to 36 percent of men.¹⁵ And evidence suggests that even moderate co-payments can cause individuals to forgo needed preventive care, particularly those with low and moderate incomes.¹⁶

- Guaranteeing contraceptive coverage in all new insurance plans would be the culmination of a 15-year campaign to rectify this long-standing inequity.

1 March of Dimes, *Pregnancy After 35* (May 2009), http://www.marchofdimes.com/Pregnancy/trying_after35.html.

2 Rowena Bonoan & Julianna S. Gonen, Washington Bus. Group on Health, *Promoting Healthy Pregnancies: Counseling and Contraception as the First Step*, *Fam. Health in Brief*, Aug. 2000, at 2.

3 U.S. Dep't of Health and Human Servs., *Healthy People 2010* 9-32 (2nd ed. 2000), available at <http://www.healthypeople.gov/Document/pdf/Volume1/09Family.pdf>

4 For example, a woman whose pregnancy is unplanned is less likely to seek prenatal care in the first trimester and more likely not to obtain prenatal care at all, less likely to breastfeed, and more likely to expose the fetus to harmful substances, such as tobacco or alcohol. *Id.* at 9-5.

5 Centers for Disease Control and Prevention, *Achievements in Public Health, 1900-1999: Family Planning, Morbidity and Mortality* weekly Report 48(47), 1073-1080 (December 3, 1999). Available at <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm4847a1.htm>.

6 S12028 CONG. REC. H.R. 3590 (daily ed. Dec. 1, 2009) (statement Sen. Mikulski).

7 S12025 CONG. REC. H.R. 3590 (daily ed. Dec. 1, 2009) (statement Sen. Boxer); S12027 CONG. REC. H.R. 3590 (daily ed. Dec. 1, 2009) (statement Sen. Gillibrand); H.R. 3590 (daily ed. Dec. 1, 2009) (statement Sen. Cardin); S12059 CONG. REC. H.R. 3590 (daily ed. Dec. 1, 2009) (statement Sen. Feinstein).

8 42 U.S.C. § 300e-1 (1)(H) (2010).

9 42 C.F.R. § 440.335 (2010).

10 *Coverage of Contraception*, E.E.O.C. Dec. (2000), available at <http://www.eeoc.gov/policy/docs/decision-contraception.html>.

11 Cmte. On Unintended Pregnancy, *Inst. of Med., The Best Intentions: Unintended Pregnancy and the Well-Being of Children and Families* (Sarah S. Brown & Leon Eisenberg, eds. 1995).

12 Ctrs. for Disease Control and Prevention, *Achievements in Public Health, 1900-1999: Family Planning, 48 Morbidity and Mortality Wkly. Rep.* 1073 (1999), available at <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm4847a1.htm>.

13 See, e.g. U.S. Dep't of Health and Human Servs., *Public Comment: Healthy People 2020*, <http://www.healthypeople.gov/hp2020/Objectives/TopicArea.aspx?id=21&TopicArea=Family+Planning> (last visited Nov. 15, 2010).

14 K.P. Campbell, *Evidence-Statement: Contraceptive Use (Counseling and Preventive Interventions)*, in *A Purchaser's Guide to Clinical Preventive Services: Moving Science into Coverage* (Campbell et al. eds. 2006), available at http://www.businessgrouphealth.org/benefitsttopics/topics/purchasers/condition_specific/evidences-tatements/contraceptiveuse_es.pdf.

15 *Id.* at 3-4.

16 Geetesh Solanki & Helen Halpin Schaffler, *Cost-sharing and the utilization of clinical preventive services*, 17 *Am. J. Preventive Med.* 127 (1999); Amal N. Trivedi et al., *Effect of Cost Sharing on Screening Mammography in Medicare Health Plans*, 358 *New Eng. J. Med.* 375 (2008).