

The Rubio Bill Would Allow Any Employer to Take Away Women's Insurance Coverage of Contraception, Harming the Health of Women and Their Families

The Rubio Bill, S. 2043, introduced in the Senate in January 2012, allows any corporation of any type, any other entity of any type, or any individual to refuse to provide contraceptive coverage and services to their employees on the basis of religious beliefs. Called the "Religious Freedom Restoration Act of 2012," it would take away the right of millions of women to have any insurance coverage for contraception, based on an employer or health plan's religious beliefs – whether affiliated or not with any religious entity.

The Rubio Bill Removes the Affordable Care Act's Guarantee that Insurance Plans Will Cover Key Preventive Health Care By Exempting Any Type of Company and Entity From the Obligation to Provide Contraception

Under the Affordable Care Act (ACA), the Department of Health and Human Services has required that all new health plans must cover certain "preventive services" for women without cost-sharing, including contraceptives, except for specific religious entities (estimated to be over 330,000 houses of worship). The Rubio Bill removes the guarantee by allowing "any individual or entity opposed by reason of religious belief" to refuse to provide any coverage of a contraceptive or sterilization service. Any employer could deny its employee insurance coverage of contraception based on its religious belief. Any group plan could refuse to include these services. The result of the bill is that millions of women would lose their right to any coverage for these vital preventive health services, even a woman who faces a life-threatening circumstance were she to become pregnant. This right to refuse applies whether the company or other entity or individual has any connection to a religious organization or whether its employees share the same religious beliefs. This could mean, for example, that any for-profit corporation whose CEO opposes contraception based on his own religious beliefs could deny all coverage of contraception services to the company's employees.

The Rubio Bill Discriminates Against Women, Endangering Their Health

The Rubio Bill singles out a basic health care service – contraception – that women need to protect the health of themselves and their family. As recognized by the Equal Employment Opportunity Commission, the exclusion of prescription contraception from health insurance unfairly disadvantages women by singling out for unfavorable treatment a health insurance need that only women have.ⁱ And 28 states require coverage of contraception in health insurance.ⁱⁱ

Failure to cover contraception forces women to bear higher health care costs to avoid pregnancy, and exposes women to unique physical, economic and emotional consequences that can result from unintended pregnancy. The ability to plan 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.ⁱⁱⁱ Contraception is also 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.^{iv} These important health outcomes are among the reasons the independent, nonprofit Institute of Medicine recommended including contraception as a required preventive service under the ACA.^v Moreover, some women use contraception for reasons other than birth control, such as regulation of cycles and endometriosis. Similarly, sterilization can be medically appropriate for women who would face a life-threatening condition were they to become pregnant. By allowing any individual or entity to take away women's right to this critical health care, the Rubio Bill threatens the health of women and their families.

The Rubio Bill Undermines Contraceptive Access for Low-Income Women

For forty years, family planning services have been clearly specified as a mandatory benefit under Medicaid, the joint federal/state health insurance program for many of the poorest Americans. The ACA includes an important provision that guarantees that all Medicaid benchmark plans cover family planning options. Because the Rubio Bill would allow any "entity" to refuse to provide coverage of contraception, that denial right would extend to states and enable them to claim a religious belief to ignore this requirement, denying millions of low-income women the contraceptive care they need.

The Rubio Bill Allows Each Individual Employee to Design His/Her Own Plan

The Rubio Bill would allow an individual to modify his or her benefits by refusing to purchase insurance coverage of contraception. By allowing each individual to design his or her own plan, the Rubio Bill radically undermines the basic principle of insurance, which involves pooling the risks for all possible medical needs of all enrollees.

For more information on contraceptive coverage please visit

<http://www.nwlc.org/contraceptivecoverage>

ⁱ U.S. Equal Employment Opportunity Commission Decision (Dec, 14, 2000), *available at* <http://www.eeoc.gov/docs/decision-contraception.html>.

ⁱⁱ Eight of those states have no exception at all for religious employers (CO, GA, IA, MT, NH, VT, WA, WI). Four states have an exemption for religious employers that is virtually identical to the one provided by the Department of Health and Human Services for houses of worship (AZ, CA, NY, OR).

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

^{iv} U.S. Dep't of Health and Human Servs., *Healthy People 2010* 9-14 (2nd ed. 2000), <http://www.healthypeople.gov/2010/Document/pdf/Volume1/09Family.pdf>.

^v Institute of Medicine, *Clinical Preventive Services for Women: Closing the Gaps* (July 19, 2011), *available at* <http://www.iom.edu/Reports/2011/Clinical-Preventive-Services-for-Women-Closing-the-Gaps.aspx>.