NATIONAL WOMEN'S LAW CENTER
EXPANDING THE POSSIBILITIES

Contraceptive Coverage in the New Health Care Law: Frequently Asked Questions

The new health care law makes preventive care more accessible and affordable to millions of Americans. This is especially important to women, who are more likely than men to avoid needed health care, including preventive care, because of cost. To help address these cost barriers and make sure all women have access to preventive health care, one section of the new health care law requires all new private insurance plans to cover a wide range of preventive services, including services such as mammograms, pap smears, smoking prevention and contraceptives without co-payments or other cost sharing requirements.[1]

I heard about this new law that requires health plans to cover birth control. What is it and what does it require?

The new health care law (the Affordable Care Act) requires certain preventive health services and screenings to be covered in all new health insurance plans without cost-sharing. This means that, for the preventive health care services included, you will not be charged a co-payment for the services and the costs of the services will not be applied to your deductible. The list of covered preventive services is extensive and includes services such as mammograms, pap-smears, and smoking cessation supports. On August 1, 2011, the list was expanded to include birth control.

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

The full range of FDA-approved prescription contraceptive methods are included. This means women can access oral contraception (the Pill), the shot (Depo-Provera), the ring (Nuvaring), contraceptive implants, diaphragms, cervical caps and permanent contraceptive methods, like tubal ligation, without paying a co-payment or having the costs applied to her deductible.

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

You will be able to get your monthly supply of birth control at no out of pocket costs, as the full cost will be covered by your monthly premium. Before this new rule, insurance plans usually only covered a portion of the cost of birth control and women would have to pay the additional cost out of pocket, in the form of a co-payment or co-insurance. This new rule means that birth control, along with the other preventive services, will be *fully covered* by insurance plans. Plans will not be able to charge extra payments for these services, such as co-payments or deductibles. Now, the cost of birth control is fully covered by the monthly premium consumers already pay, without any extra payments.

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 maternity, infant, and dependent care are more expensive than

[1] Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148, § 2713, 124 Stat. 119, 131 (2010) (to be codified at 42 U.S.C. § 300gg-13).

family planning services. According to the National Business Group on Health (NBGH), 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]

When do these new requirements take effect?
Many private insurance plans have already started providing some of the preventive services—those recommended by the U.S. Preventive Services Task Force, the Advisory Committee on Immunization Practices, and the American Academy of Pediatrics—as of January 1, 2011. The requirement that all new plans cover the additional Women's Preventive Services has not yet taken effect. The official start date is August 1, 2012, but since most plan changes take effect at the beginning of a new plan year, the requirements will be in effect for most plans on January 1, 2013. School health plans, which often begin their health plan years around the beginning of the school year, will see the benefits of the August 1st start date.

I get health insurance through my employer, how do I know if my plan is new and if these requirements apply to my plan?
Health plans that existed before the health care reform law are considered "grandfathered" into the new system under the health care reform law.[3] This means that the plan can continue to operate just as it has until it makes significant changes to the plan. These changes include: cutting benefits significantly; increasing co-insurance, co-payments, or deductibles or out-of-pocket limits by certain amounts; decreasing premium contributions by more than 5%; or, adding or lowering annual limits.[4] Grandfathered plans don't have to follow the new preventive services cost sharing rules.

Un-grandfathered plans are group health plans created after the health care reform law was signed by the President or individual health plans purchased after that date. All un-grandfathered private health plans have to follow the new preventive health services coverage and cost-sharing rules. When you hear that "all new health plans" have to cover these services, it means that all "un-grandfathered" plans must cover them.

Will my plan ever become "un-grandfathered" and have to follow the new rule?
Yes. A recent survey found that 90% of all large U.S. companies expect that their health plans will lose grandfathered status by 2014.[5] Eventually all plans will lose their grandfathered status and distinctions between the two types of plans will disappear. At that point, all plans will cover these important preventive health services without cost sharing.

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[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] *See supra* note 1 at § 1251, 124 Stat. at 161-62.
[4] Preservation of Right to Maintain Existing Coverage, 45 CFR § 147.140 (2011).
[5] Stephen Miller, Society for Human Resources Management, Nine of 10 Big Companies Expect to Lose Grandfathered Status (Aug. 20, 2010), http://www.shrm.org/hrdisciplines/benefits/Articles/Pages/GrandfatherStatus.aspx.

What about women on Medicaid?
These new provisions only apply in private health plans. Thankfully, most women on Medicaid already have access to contraception without co-payments.[6]

Are religious organizations exempt from these requirements?
The Department of Health and Human Services has proposed a rule that would exempt a small segment of religious employers, such as churches,[7] from this contraceptive coverage requirement. We do not believe that the Department of Health and Human Services has the legal authority to exempt these organizations from this requirement. This decision is not yet final and in its current form, it would not apply to most religiously-affiliated employers such as religious hospitals, church-affiliated schools and universities, and religiously-affiliated charities. Therefore, most religiously-affiliated employers will have to comply with this law.

I like this part of the new health care law, but I have heard that some people are trying to repeal it. What can I do to keep this important new benefit?
First, you should tell your Member of Congress that you support the new health care law and this new benefit. Next, you should tell your Member of Congress and the Department of Health and Human Services that you support contraceptive coverage for all women, no matter who their employer is. Finally, you should find out where candidates stand on these issues and make sure to vote.

[6] The Kaiser Family Foundation and the Guttmacher Institute, "Medicaid's Role in Family Planning," (Oct. 2007), available at: http://www.kff.org/womenshealth/upload/7064_03.pdf

[7] Specifically, the Interim Final Rules define an employer that can invoke the exemption as one that:

> (1) Has the inculcation of religious values as its purpose;
> (2) primarily employs persons who share its religious tenets;
> (3) primarily serves persons who share its religious tenets; and
> (4) is a non-profit organization under section 6033(a)(1) and section 6033(a)(3)(A)(i) or (iii) of the Code. Section 6033(a)(3)(A)(i) and (iii) refer to churches, their integrated auxiliaries, and conventions or associations of churches, as well as to the exclusively religious activities of any religious order.

Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services Under the Patient Protection and Affordable Care Act, 76 Fed. Reg. 46621 (proposed Aug. 3, 2011) (to be codified at 45 CFR Part 147).