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Guaranteeing Coverage of Contraceptives: Past and Present

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The National Women's Law Center has been working on getting contraceptive covered in health plans for many years. The following information provides highlights in the efforts across the country to ensure this important coverage for all women.

- Early 1990s: surveys revealed that contraceptives were frequently excluded from [health insurance plans](#) (#). For example, a 1993 survey found that half of indemnity plans for large groups did not cover any nonpermanent contraception and only 39% of HMOs routinely covered all methods of reversible contraception.
- March 1994: Testimony was presented at a hearing before the Senate Subcommittee on Aging of the Labor and Human Resources Committee that only 15% of large-group health plans covered all main [methods of contraception](#) (#), and half typically did not cover any contraceptive method at all.
- 1994: California became the first state to introduce legislation requiring [insurance plans](#) (#) that cover other prescription drugs to cover contraceptives.
- Spring 1997: The Equity in Prescription Insurance and Contraceptive Coverage (EPICC) Act was introduced with bipartisan support in the House and Senate. EPICC would have required insurance plans that cover other prescription drugs, devices, and services to provide the same level of coverage for contraceptive drugs, devices, and services.
- March 1998: The FDA approved coverage of Viagra. Many insurance plans began covering the drug. The sharp contrast between insurance companies' willingness to cover Viagra and their reluctance to cover contraceptives captured the attention of the media and the public and created a groundswell of support for contraceptive equity legislation.
- April 1998: Maryland became the first state in the nation to enact a law requiring insurance plans that cover other prescription drugs to cover prescription contraceptives.
- June 1998: A Kaiser Family Foundation poll found that 75% of Americans believed contraception should be covered by insurers even if such coverage added to the cost.
- July 1998: In response to evidence that a substantial number of plans participating in the Federal Employee Health Benefits Plan (FEHBP) did not cover all FDA-approved contraceptives, and some did not cover any FDA-approved methods, Congress amended the FEHBP to require equity in insurance coverage of contraceptives. Adding contraceptive coverage to the FEHBP caused no increase in the premium costs.
- July 1998: The Senate Labor and Human Resources Committee held a hearing on the Equity in Prescription Insurance and Contraceptive Coverage Act.
- 1999: Nine additional states (CA, CT, GA, HI, ME, NV, NH, NC, VT) passed contraceptive equity legislation.
- 2000: Three more states (DE, IA, RI) adopted contraceptive equity legislation.
- December 2000: The Equal [Employment](#) (#) Opportunity Commission, in a major legal advance for women, ruled that an employer's failure to provide insurance coverage for prescription contraceptives, when it covers other prescription drugs, devices, and preventive care, constitutes unlawful sex discrimination under Title VII of the Civil Rights Act of 1964.
- Spring 2001: President Bush proposed to eliminate the contraceptive equity requirement in the Federal Employee Health Benefits Plan in his first budget proposal to Congress. Congress rejected the President's attempt and subsequent budget proposals included the requirement.
- June 2001: A federal court ruled that an employer is violating Title VII, the federal law against sex discrimination in the workplace, by failing to provide insurance coverage for prescription contraceptives in an employee [health plan](#) (#) that covers other prescription drugs and devices and preventive care. In its decision, the court recognized that the exclusion of prescription contraceptives creates a gaping hole in the coverage offered to female employees, leaving a fundamental and immediate healthcare need uncovered, and ordered the company to cover the expenses of prescription contraceptives and related medical services to the same extent and on the same terms that the expenses of other drugs, devices and preventive services are covered in the employees' health plan.
- June 2001: A poll found that 77% of Americans support laws requiring health insurance plans to cover prescription contraception.
- September 2001: The Senate Health, Education, Labor, and Pensions Committee held a hearing on the Equity in Prescription Insurance Coverage of Contraceptives Act entitled, "Improving Women's Health: Why Contraceptive Insurance Coverage Matters."
- 2002: A survey showed that insurance coverage of a full range of contraceptive methods had more than tripled since 1994. The study attributed this increase in large part to the state contraceptive coverage equity legislation, but also acknowledged that the FEHBP coverage, sex discrimination decisions like the EEOC's, and heightened publicity played a role in increasing coverage.
- April 2004: The Putting Prevention First Act, a comprehensive bill designed to improve access to contraception and prevent unintended pregnancy, is first introduced in the U.S. Senate and includes the Equity in Prescription Insurance and Contraceptive Coverage Act.
- 2005: Two more states (AR, WV) enact contraceptive equity legislation, bringing the number of states with such requirements to 20.
- January 2007: After five years of litigation, Wal-Mart, the nation's largest private sector employer, began offering contraceptive coverage to its employees. As a result of Wal-Mart's decision, a class action lawsuit against Wal-Mart was voluntarily dismissed.
- March 2007: Under the particular factual circumstances in the case, a divided Eighth Circuit Court of Appeals panel held that Union Pacific's failure to provide contraceptive coverage was not sex discrimination under federal law. Fortunately for the women involved, Union Pacific had already changed its plan to include prescription contraceptives and announced that it would not take away the coverage following the Eighth Circuit's decision.

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- 2009: Wisconsin becomes the 25th state to enact contraceptive equity legislation.
- November 2009: Senator Barbara Mikulski offered the first amendment during Senate debate of the Affordable Care Act, which requires women's preventive services to be covered in all new health insurance plans and provided with no co-pay to patients. The amendment passes with bipartisan support. A number of key Senators stated that the amendment is intended to guarantee coverage of family planning services and supplies with no co-pay to patients.
- March 23, 2010: President Obama signed the landmark Patient Protection and Affordable Care Act (known as the Affordable Care Act) into law.
- October 2010: The Institute of Medicine announced that a Preventive Services for Women panel has been convened to identify the women's preventive services that insurance plans must cover and provide with no co-pay under the Affordable Care Act.
- November 2010: The first meeting of the Institute of Medicine Preventive Services for Women panel is held in Washington, DC.
- July 2011: The Institute of Medicine Preventive Services for Women panel issued its recommendations to the Department of Health and Human Services about which additional women's preventive services insurance plans must cover and provide with no co-pay under the Affordable Care Act. It recommended including "the full range of Food and Drug Administration-approved contraceptive methods, sterilization procedures, and patient education and counseling for all women with reproductive capacity."
- August 2011: The Department of Health and Human Services adopted the recommendations of the Institute of Medicine Preventive Services for Women panel as guidelines supported by the Health Resources and Services Administration. However, it proposed an exemption from the contraceptive coverage requirement for some religious employers.
- February 2012: HHS finalized the contraceptive coverage requirement with the religious employer exemption and issued guidance on a temporary one year delay for certain other organizations with religious objections to providing contraceptive coverage.
- February 2012: HHS announced its intent to develop an "accommodation" for other, undefined "religious organizations" with religious objections to contraceptive coverage. Under the proposed accommodation, health insurance issuers would offer group health insurance coverage without contraceptive coverage to organizations eligible for the accommodation while simultaneously providing contraceptive coverage directly to the participants and beneficiaries without cost sharing.
- March 1, 2012: The Senate defeats an attempt to allow any employer to refuse to cover any health care service required under the Affordable Care Act, including contraception, for "religious beliefs or moral convictions."
- June 2012: Internal polling for Planned Parenthood and NWLC conducted by Hart Research among likely voters showed that nearly three in four voters (73 percent), including 80 percent of women and 78 percent of Independents, agreed that all women should have access to affordable prescription birth control and that cost should not be a barrier to using the most effective form of birth control. Additionally, when it comes to employers providing full coverage for prescription birth control, by a 20-point margin, 56 percent of American voters see this issue as a matter of women's health care and access to birth control, not one of religious liberty.
- November 2011 through July 2012: Twenty-four lawsuits were filed against the contraceptive coverage requirement.
- July 2012: Two of the contraceptive coverage lawsuits were dismissed by federal district court judges. In an additional case, the judge granted a preliminary injunction, meaning the particular company that brought the case cannot be forced to comply with the requirement while the lawsuit proceeds.
- August 1, 2012: Starting this day, all new health insurance plans will be required to cover the preventive services for women, including contraceptives, without cost sharing as of their new plan year. In the next few years, as an increasing number of health plans come under the law's reach, more and more women will get this coverage. This new benefit should go a long way toward making sure every woman can get and use the contraceptive method that is right for her.

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