TEXAS Women's Healthcare COALITION

NEW FEDERAL RULES THREATEN BIRTH CONTROL ACCESS FOR THOUSANDS OF TEXAS WOMEN

On October 6th, 2017 the US Department of Health and Human Services, Department of the Treasury, and Department of Labor issued two new rules, effective immediately, that substantially expand the types of entities that can refuse to comply with the Affordable Care Act's (ACA) contraceptive coverage requirement. The new rules provide a broad exemption for insurers and employers to claim a moral or religious objection to providing birth control and related services. These rules put at risk the contraceptive coverage that millions of women rely on, including the over 4 million women in Texas who depend on the contraceptive coverage guarantee for no-cost birth control and contraceptive services.[i]

We recognize the importance of exercising one's own faith, and value the free expression of religion. However, we also value the right women have to plan and space their pregnancies in the interest of the health and well-being of themselves and their families. We recognize a harmful precedent with this rule change that places an employer's personal beliefs above their employees'.

What is the Federal Contraceptive Coverage Guarantee?

The Affordable Care Act (ACA) was the first federal law to have contraceptive coverage requirements for most health plans regulated by the federal government, including employer-sponsored plans. Nearly 60% of women in the US receive their health insurance from their own or their spouse's employer-sponsored health plan.[ii] Before the implementation of the ACA, insurers and employers could decide whether to offer contraceptive coverage, unless the state had its own contraceptive coverage mandate.[iii] Texas does not require coverage of contraception in all private health insurance plans, and state law allows insurers associated with religious organizations to refuse to offer contraceptive coverage.[iv] [v]

The federal contraceptive coverage guarantee eliminated cost-sharing for contraceptives. Cost-sharing refers to the out-of-pocket expenses individuals would have to cover on their own, including copayments and coinsurance. Under the guarantee, most private health plans were required to cover at least one form of contraception in each of the eighteen contraceptive method categories approved by the Federal Food and Drug Administration (FDA). These methods included:

- Hormonal methods, like birth control pills and vaginal rings
- Long-acting reversible contraception (LARC), like intrauterine devices and implants
- Barrier methods, like diaphragms and sponges
- Female sterilization procedures

In addition to removing out-of-pocket costs for contraception, the mandate also required plans to cover the cost for contraception-related services, including follow-up office visits, contraceptive counseling, and the

removal of contraceptive devices.[vi] [vii] The contraceptive coverage under the ACA did not require health plans to cover drugs that induce abortions.[viii] Though the contraceptive coverage guarantee applied to most employers, there were some exceptions for religious employers, religiously affiliated non-profits, and closely held for-profits. Even with the exceptions, over 55 million women nationwide gained contraceptive coverage under the guarantee.[ix]

Contraceptive Use and the Impact the New Rules Will Have on Women

Access to preventive healthcare – including contraception – is critically important to the health and well-being of women and babies. When women and couples are able to plan and space pregnancies, babies have less risk of prematurity and low birth weight, and mothers experience healthier outcomes too. Planned pregnancies have a healthier start, with earlier prenatal care, less alcohol and tobacco exposure, more folic acid to prevent birth defects, more breastfeeding, and many positive outcomes for children.

Unfortunately, thousands of women are at risk of losing access to contraceptive care under the new rules. The first rule allows employers to opt out of providing contraception and/or related counseling and education if the employer claims a religious objection. The second rule allows for similar exemptions for those with moral objections.

Over 4 million women in Texas depend on the contraceptive coverage guarantee for no-cost birth control and contraceptive services. [x] With the expansion of exemptions, many women may face new policies that deny them access to these services.

Prescription cost is a major barrier for many to obtain the medication they need.[xi] A recent survey found one-third of voters who are women of reproductive age would not be able to afford contraception priced at over $10 per month.[xii] The same survey found that one in seven of the same group of women would not be able to afford contraception at any price.[xiii] In the years since the contraceptive coverage guarantee has been in effect, the percent of US women with out-of-pocket expenses for OCPs dropped from over 20% to less than 4%.[xiv] In 2013, the guarantee saved women using OCPs over $1.4 billion.[xv] Studies show that paying full cost leads to reduction in contraceptive use .[xvi] This in turn leads to an increased risk of unintended pregnancy, and the potential health and economic risks associated with unintended pregnancy. [xvii] [xviii] [xix]

These financial challenges are even greater for women trying to access more effective forms of contraception, such as implants or intrauterine devices (IUDs). These forms of birth control can be 20 times more effective than other methods, but they are also expensive. [xx] High up-front costs and insufficient contraceptive counseling have been found as significant barriers to access for women who have a preference for a LARC method. [xxi] [xxii] If more employers stop providing coverage, many women may have no other option but to rely on less effective methods, or no method at all.

As part of the Administration's justification for the new rules, the rules preamble suggests that existing public programs are able to meet the need for subsidized free or contraceptive care. However, it is clear that Texas is still struggling to serve the 1.8 million women in need of contraceptive care in the state. Recent state investments in family planning have been critical, but data continues to show that Texas is only serving a

fraction of the women in need. Our state's fragile family planning programs will be even further strained if forced to absorb insured clients that may now require free or low-cost contraceptive services.

Increasing women's ability to plan and space their pregnancies leads to an array of benefits, including lower abortion rates, improved infant and maternal health, better educational and economic opportunities for families, and cost savings for the state. Without the contraceptive coverage guarantee, the 55 million women (including 4 million women in Texas) who gained no-cost contraceptive coverage since the implementation of the ACA will be at risk for losing contraceptive access.

What Can You Do?

As advocates for women's access to preventive healthcare, the TWHC will continue to educate policymakers and the public on the key role preventive healthcare plays in supporting women, their partners, and their families in reaching their goals for healthy futures.

Though the new rules are effective immediately, a number of groups are filing lawsuits to block the rules. The rules are also undergoing a public comment period ending on December 5th. Please consider submitting comments urging the administration to reconsider these broad exemptions, and to support policies that improve access to critical preventive health services for women.

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