



POLITICS

(Not so) free birth control: White House puts pressure on insurance companies over ACA requirement

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WASHINGTON – A North Carolina woman was threatened with debt collection after receiving a \$5,700 bill for a tubal ligation she had been told would be fully covered by her insurance plan.

In Oregon, a mother who wanted to avoid hormone medications while still breastfeeding chose a recently approved hormone-free contraceptive – which was promptly rejected by her provider.

When a woman in Texas asked her insurance company about the federally required process for seeking an exception to her plan's preferred IUD, she was told no such process existed.

Those are among thousands of apparent violations of the Affordable Care Act's requirement that insurance plans cover contraceptives without co-pays or other out-of-pocket costs for consumers. The National Women's Law Center collected the stories via a hotline in recent years to help women get no-cost contraceptives.

Now the federal government is listening.

The three federal agencies with enforcement authority over the ACA's requirement recently put insurers on notice that they are "actively investigating" such complaints

and considering whether additional regulations are needed.

In addition, the administration is expected to take steps by mid-February to rewrite a Trump administration policy allowing any employer with religious objections – and many with moral concerns – to bypass the ACA’s requirement that their insurance plans include birth control coverage.

The Biden administration’s push for wider contraceptive coverage comes as conservative states move to enact tighter restrictions on abortion access in anticipation of a possible Supreme Court ruling that rolls back reproductive rights.

A Supreme Court decision overturning the 1973 *Roe v. Wade* ruling, which established the right to an abortion, could make contraceptives the next big fight in reproductive health, according to advocates.

“We’re at the beginning of that next wave of some of those attacks,” said Mara Gandal-Powers, director of birth control access and senior counsel for the National Women’s Law Center.

Consumers covered through a private-sector, employer-provided health plan can contact the Labor Department at 1-866-444-3272 if they think they've been incorrectly charged for birth control or improperly denied a preferred method.

Those covered by workplace plans offered by state and local governments can call the Health Insurance Assistance Team of the U.S. Center for Consumer Information and Insurance Oversight at (888)-393-2789. (State insurance regulators handle complaints for marketplace plans under the ACA.)

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Strengthening Obamacare

President Joe Biden has promised to protect reproductive rights. His administration has also made it a priority to shore up the ACA, the 2010 law passed when Biden was vice president, commonly referred to as Obamacare. After Republicans failed to overturn the law, the Trump administration worked to weaken it.

Among its requirements, the ACA said insurers can't charge out-of-pocket fees for preventive services such as birth control, cancer screenings, flu shots and annual wellness visits.

After enactment, contraceptive costs for women fell and usage went up, studies show.

"For some people, it was huge," said Dr. Raegan McDonald-Mosley, a practicing OB-GYN who heads the advocacy group Power to Decide.

Not having to pay \$50 a month for birth control pills can be a game changer for women struggling to make ends meet, she said. But the biggest benefit was giving women access to more effective, longer acting contraceptives like IUDs and implants that have high, up-front costs.

"Those methods were just out of reach for so many people before," McDonald-Mosley said.

Medical abortion Q&A: Are abortion pills safe? Can I get out-of-state prescription? Your questions, answered

Still, a study published last year in the scholarly journal Preventive Medicine found 40% of contraceptive services received by patients in 2018 involved out-of-pocket

costs. Birth control wasn't the only preventive service for which such bills persisted, but it was one of the most common.

“Most people are getting the coverage without cost sharing,” Gandal-Powers said. “But for the folks where it doesn't work well, it's very much not working well. “

Reasons women end up paying out of pocket include:

New birth control options, old hurdles

The Food and Drug Administration has approved a number of new contraceptives in recent years, including a nonhormonal gel, a low-dose patch, vaginal rings that last a full year and mobile apps to help track fertility cycles. But as the breastfeeding woman in Oregon discovered, the newer methods may not be covered by an insurance plan.

“It's an exciting time to be a family planning provider,” McDonald-Mosley said. “And yet, it can't be a full reality in terms of access until the plans are doing what they need to do to make sure that all methods are available at no cost, even if they are a newer method or a different method or a more expensive method.”

Kristine Grow, spokeswoman for America's Health Insurance Plans (AHIP), a trade association, said it may take plans “a bit of time” to include newly approved contraceptives on their lists of covered products.

The new guidance issued by the Biden administration emphasizes that all FDA-approved contraception must be covered without cost-sharing as long as a doctor determines they are medically appropriate.

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Are insurers telling women to 'fail first'?

Insurers are allowed to use “reasonable” management techniques to control costs, such as offering for free a generic version of a birth control pill while adding a fee for the brand-name version. But the insurer can’t charge extra if a doctor says the plan’s preferred product is not medically appropriate for that patient, whether because of side effects or other issues.

Insurers also can’t require a woman to, for example, first try a vaginal ring before paying for an IUD.

Federal agencies, however, said they’ve received reports that products aren’t being covered even when a doctor makes clear that a particular contraceptive is medically necessary. The agencies said they’ve also been told plans are requiring women to “fail first,” using other methods of contraception before approving the type the woman requests.

And, they said, some insurers are not providing a transparent, easy way for women to seek an exception to the plan’s preferred list of contraceptives.

Grow, the AHIP spokeswoman, said insurers work hard to ensure their exception processes are clear.

“Anyone with a question about how to get an exception is encouraged to contact their health insurance provider,” she said.

Advocates are pushing the federal government to create a standard exception procedure that plans must follow.

“This really is an equity issue,” McDonald-Mosley said. “When you think of who might be aware that this is a problem and have the time and space and energy to spend hours on the phone with their plans to try to figure this out, the burden of these decisions is really going to impact folks with lower income and people of color more than others.”

Family planning clinics: With abortion in spotlight, can Biden reverse 'devastating' drop in federal program?

Free birth control, bills for related costs

Although costs associated with contraceptives – such as counseling, IUD insertions and removals and follow-up appointments – are supposed to be covered, the thousands of complaints the National Women’s Law Center has collected includes instances when they haven’t been.

In the case of the North Carolina woman who received a \$5,700 bill for her tubal ligation, her insurance had covered the surgeon and anesthesiologist, but applied the costs for the procedure, medications and facility to her deductible and co-insurance, according to the center.

A woman in Washington, D.C., told the center she was charged \$300 for an ultrasound taken at a recommended follow-up appointment to her IUD insertion. (The law center's public data did not include women's full names or other identifying information.)

“Sometimes people have difficult insertions or removals that require an ultrasound and so those need to be billed as preventive services,” said McDonald-Mosley. While part of the responsibility is on the health care provider to correctly categorize the service as preventative, she said, “there's an accountability component from the payer side as well.”

Her group was among the nearly three dozen members of the Family Planning Coalition that wrote to the administration last fall urging action. The Trump administration “took few, if any, steps to enforce” the contraceptive coverage requirement, the coalition said.

“No plan has been slapped down since the Trump administration took office,” said Rachel Fey, vice president for policy at Power to Decide. “After five years of no consequences...they’re not complying.”

Democratic leaders of key congressional committees also asked the administration to crack down on insurers – and have applauded the recent action.

“With reproductive rights under unprecedented attack, ensuring that everyone can get the birth control that works best from them is more urgent than ever,” said Sen. Patty Murray, D-Wash., who called the administration’s warnings to insurers a “good first step.”

Murray, the head of the Senate Health, Education, Labor and Pensions Committee, and Sen. Ron Wyden, D-Ore., who chairs the Senate Finance Committee, have told the administration they expect “robust enforcement.”

While advocacy groups have pushed the administration to do a public awareness campaign to make women aware of their options, some are going ahead with their own.

HealthyWomen, a nonprofit that educates women about health choices, is launching a campaign that includes an online hub of resources.

Women are being wrongly billed for prescribed contraception, said HealthyWomen CEO Beth Battaglino. “And many women don't realize that they can fight that.”

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