



REPRODUCTIVE RIGHTS & HEALTH

THE AFFORDABLE CARE ACT'S BIRTH CONTROL BENEFIT IS WORKING FOR WOMEN

Birth control use is nearly universal among women of reproductive age in the United States and is a key part of preventive health care for women.¹ Access to birth control provides health benefits for women and children, improves women's ability to control whether and when they have a child, and fosters women's ability to participate in education and the workforce on an equal footing with men.² Yet, the cost of birth control – particularly the higher up-front costs of the more effective, longer-acting birth control methods – is often a barrier to women accessing the birth control they need.³

The federal health care law, the Affordable Care Act (ACA) requires insurance plans to cover all Food and Drug Administration (FDA)-approved methods of birth control for women without out-of-pocket costs.⁴ This is commonly known as the “birth control benefit” and was included in the law to remove the cost barriers that can prevent women from accessing the care that they need. It has been a great success. Tens of millions of women now have coverage of birth control without out-of-pocket costs, and preliminary studies show that more women are using insurance to get their birth control. Because of the strong link between birth control access and women's educational and workplace success, the birth control benefit fosters women's economic security.

The Birth Control Benefit

Under the ACA's birth control benefit, all health plans must provide coverage of birth control with no cost-sharing, such as out-of-pocket costs like deductibles, co-payments, and co-insurance.⁵ The birth control benefit also applies to populations newly covered through the Medicaid expansion. Plans must provide this coverage for all enrollees, including

dependent children when the plan offers coverage to those dependents.⁶ Plans cannot limit this coverage based on an individual's sex assigned at birth, gender identity, or gender recorded by the plan.⁷

Specifically, the birth control benefit requires plans to cover at least one form of birth control in each of the 18 birth control methods for women on the FDA's Birth Control Guide.⁸ Plans may use strategies to keep costs down, like charging out-of-pocket costs for a brand name drug while covering a generic without costs, *within* a birth control method category.⁹ However, plans must waive out-of-pocket costs through an exceptions process if a provider determines that a specific birth control product is right for a woman.¹⁰ The exceptions process must defer to the provider's determination.¹¹ Plans must also cover without out-of-pocket costs: clinical services needed in relation to a birth control method;¹² follow-up services and services to manage side effects from the birth control; counseling and education; and, removal of birth control devices.¹³

Millions of Women No Longer Face Cost Barriers to Birth Control

Over 55 million women now have coverage of birth control and other preventive services without out-of-pocket costs.¹⁴ Several studies have shown that since the ACA benefit went into effect, women are accessing birth control coverage without out-of-pocket costs.

- As of spring 2014, two-thirds of women using oral birth control and nearly three quarters of women using the vaginal contraceptive ring were no longer paying out-of-pocket for these methods.¹⁵
- An additional study found that 87% of insured women would have no out-of-pocket costs for coverage of a hormonal intrauterine device (IUD).¹⁶
- The ACA's birth control benefit saved women \$1.4 billion on birth control pills *alone* in 2013.¹⁷



Initial Studies Indicate That More Women Are Using Insurance to Get Birth Control

Early analyses point to more women using their insurance coverage when obtaining birth control since the birth control benefit went into effect.

- Data on prescription drug use in 2013 indicate a nearly five percent uptick in filled prescriptions for birth control pills.¹⁸
- Use of insurance coverage for birth control increased 17.2% from 2014 to 2015 among those enrolled in marketplace plans with pharmacy benefits managed by Express Scripts, one of the nation's largest pharmacy benefit management companies.¹⁹ Express Scripts attributed increased use across the top 10 drug therapy classes, including birth control, to fulfilling previously unmet needs for drug coverage, and attributed increased birth control use to the birth control benefit.

Insurance Coverage of Birth Control Improves Women's Health and Economic Security

The decision to have a child is one of the greatest economic decisions a woman will make in her lifetime. Birth control access is strongly connected to women's greater educational and professional opportunities and increased lifetime earnings.²⁰ Thanks to the ACA's birth control benefit, many women no longer have to choose between paying for birth control and paying for other necessities, like groceries and utilities. Not only does this help their short-term financial stability, but also it makes it easier for them to plan whether and when to have children.

If you are still paying out-of-pocket for birth control or have questions about the ACA birth control benefit, access additional resources and contact the National Women's Law Center CoverHer project at www.coverher.org.

- 1 Ninety-nine percent of sexually active women have used birth control at some point in their life. Kimberly Daniels et al., *Contraceptive Methods Women Have Ever Used: United States, 1982-2010*, National Health Statistics Reports No. 62, 4 (Feb. 14, 2013), available at <http://www.cdc.gov/nchs/data/nhsr/nhsr062.pdf>.
- 2 See, e.g., Adam Sonfield et al., Guttmacher Inst., *The Social and Economic Benefits of Women's Ability to Determine Whether and When to Have Children* (2013), available at <http://www.guttmacher.org/pubs/social-economic-benefits.pdf> (providing an extensive review of studies that document how controlling family timing and size contribute to educational and economic advancements).
- 3 Brief of the Guttmacher Institute and Professor Sara Rosenbaum as Amici Curiae Supporting the Government at 16, *Burwell v. Hobby Lobby Stores, Inc.*, 134 S.Ct. 2751 (2014) (Nos. 13-354 & 13-356).
- 4 42 U.S.C. § 300gg-13(a) (2016).
- 5 *Id.* and 42 U.S.C. § 18022(c)(3)(A)(i). Some health plans that existed prior to the health care law are considered "grandfathered" and do not yet have to comply with the birth control benefit.
- 6 U.S. Dep't of Health and Human Svcs., U.S. Dep't of Labor, and U.S. Treasury, FAQs on Affordable Care Act Implementation XXVI (May 11, 2015), available at <https://www.dol.gov/ebsa/faqs/faq-aca26.html>.
- 7 *Id.*
- 8 *Id.*
- 9 U.S. Dep't of Health and Human Svcs., U.S. Dep't of Labor, and U.S. Treasury, FAQs on Affordable Care Act Implementation Part XII (Feb. 20, 2013), available at <https://www.dol.gov/ebsa/faqs/faq-aca12.html>, and U.S. Dep't of Health and Human Svcs., FAQs Part XXVI.
- 10 U.S. Dep't of Health and Human Svcs., FAQs Part XII; U.S. Dep't of Health and Human Svcs., FAQs Part XXVI; and U.S. Dep't of Health and Human Svcs., U.S. Dep't of Labor, and U.S. Treasury, FAQs on Affordable Care Act Implementation Part XXXI (April. 20, 2016), available at <https://www.dol.gov/ebsa/faqs/faq-aca31.html>.
- 11 U.S. Dep't of Health and Human Svcs., FAQs Part XXVI. The provider's determination can include factors such as severity of side effects, differences in permanence and reversibility of the birth control, and ability to adhere to appropriate use of the birth control. *Id.* Additional guidance also indicated that plans may create a standardized cost-sharing exceptions form and that the Medicare Part D Coverage Determination Request Form could serve as a model for the exceptions process. U.S. Dep't of Health and Human Svcs., FAQs Part XXXI.
- 12 *Id.*
- 13 U.S. Dep't of Health and Human Svcs., FAQs Part XII and U.S. Dep't of Health and Human Svcs. Health Resources Servs. Admin., *Women's Preventive Services Guidelines* (Aug. 1, 2011) available at <http://www.hrsa.gov/womensguidelines/>.
- 14 U.S. Dep't of Health and Human Svcs., Asst. Sec. for Planning and Evaluation, *The Affordable Care Act is Improving Access to Preventive Services for Millions of Americans* (May 14, 2015), available at http://aspe.hhs.gov/health/reports/2015/Prevention/ib_Prevention.pdf.
- 15 Adam Sonfield et al., *Impact of the federal contraceptive coverage guarantee on out-of-pocket payments for contraceptives: 2014 update*, 91 *Contraception* 44 (2015) available at [http://www.contraceptionjournal.org/article/S0010-7824\(14\)00687-8/pdf](http://www.contraceptionjournal.org/article/S0010-7824(14)00687-8/pdf).
- 16 Jonathan M. Bearak et al., *Changes in out-of-pocket costs for hormonal IUDs after implementation of the Affordable Care Act: an analysis of insurance benefit inquiries*, 93 *Contraception* 139 (2016) available at [http://www.contraceptionjournal.org/article/S0010-7824\(15\)00575-2/abstract](http://www.contraceptionjournal.org/article/S0010-7824(15)00575-2/abstract).
- 17 Nora V. Becker and Daniel Polsky, *Women Saw Large Decrease in Out-of-Pocket Spending for Contraceptives After ACA Mandate Removed Cost Sharing*, 34 *Health Affairs* 1204 (July 2015) available at <http://content.healthaffairs.org/content/34/7/1204.abstract>.
- 18 IMS Inst. for Healthcare Informatics, *Medicine Use and Shifting Costs of Healthcare: A Review of the Use of Medicines in the United States in 2013*, (2014), available at http://www.plannedparenthoodadvocate.org/2014/IIHI_US_Use_of_Meds_for_2013.pdf.

