



December 4, 2023

The Honorable Xavier Becerra
Secretary, U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Becerra,

Contraception is essential preventive healthcare. Pennsylvania, joined by the executive committee Governors of the Reproductive Freedom Alliance, applauds the Biden-Harris Administration's efforts to expand access to contraception through private and government-funded healthcare programs. We share the goals of President Biden's June 23, 2023 Executive Order on Strengthening Access to Affordable, High-Quality Contraception and Family Planning Services. That order reiterated the Administration's commitment "to support[ing] access to reproductive healthcare services and to protect[ing] and defend[ing] reproductive rights in the face of ongoing efforts to strip Americans of their fundamental freedoms." The order also directed agencies across the federal government to take further steps to achieve these goals. As allies in the fight for reproductive freedom, we urge you to take further steps to ensure that all women have access to necessary contraceptive services.

On July 13, 2023, the FDA approved the first over-the-counter (OTC) daily birth control pill, a development that could revolutionize access to contraception in the United States. This medication is expected to be released to the public shortly. Prior to that release, we urge you to take all necessary and available steps to ensure that this non-prescription OTC option will be covered without cost-sharing under private health insurance plans subject to Affordable Care Act (ACA) regulations, Medicare, and Medicaid. As a 2020 Women's Health Issues study found, with no or low out-of-pocket costs, a large population of women are likely to use an OTC birth control product, leading to greater contraceptive access and decreased unintended pregnancies. Without coverage that includes low or no out-of-pocket costs, over-the-counter birth control products become much less accessible.

The ACA requires insurers to provide coverage for all FDA-approved forms of contraception, without imposing a cost-sharing requirement. To ensure full compliance with this requirement, we ask that your agency update the Health Resources & Services Administration guidelines to clarify that the ACA's preventive health mandate includes no-cost coverage of OTC contraceptives without a prescription.

Additionally, the Centers for Medicare & Medicaid Services must help ensure equitable access to OTC birth control regardless of prescription status and enable states to leverage a federal match to pay for the medications. While we are proud of the states that have taken legislative steps to expand contraceptive coverage without the need for a prescription, in most states, Medicaid plans do not fully cover OTC birth control without a prescription. Allowing Medicaid recipients to receive OTC birth control without a prescription expands access to a critical component of reproductive healthcare in communities currently struggling with provider shortages, particularly in rural communities and among communities of color. Medicaid coverage also would provide much-needed consistency and predictability – for consumers and state governments alike – in how plans implement coverage of OTC contraceptives.

As Governors, we see firsthand the need for affordable and accessible reproductive health coverage in our communities. In forming the Reproductive Freedom Alliance, we vowed to safeguard and improve reproductive healthcare access in the face of an unprecedented assault on the right to primary healthcare.

We urge your department to promptly disseminate new guidance on coverage of OTC contraception and join us in expanding access to reproductive healthcare for the most vulnerable populations in our country.

Thank you for your consideration.

Sincerely,



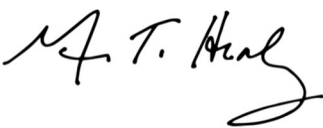
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