

## Contraceptive Coverage in the Health Care Law: Frequently Asked Questions

The health care law makes preventive care more accessible and affordable to millions of Americans. This is especially important to women, who are more likely than men to avoid needed health care, including preventive care, because of cost. To help address these cost barriers and make sure all women have access to preventive health care, one section of the health care law requires all new and non-grandfathered private insurance plans to cover a wide range of preventive services, including services such as mammograms, pap smears, smoking prevention and contraceptives without co-payments or other cost sharing requirements.<sup>1</sup>

### **I heard about this new law that requires health plans to cover birth control. What is it and what does it require?**

The health care law (the Affordable Care Act) requires certain preventive health services and screenings to be covered in all new health insurance plans without cost sharing. This means that, for the preventive health care services included, you will not be charged a co-payment for the services, and the costs of the services will not be applied to your deductible. The list of covered preventive services is extensive and includes services such as mammograms, pap-smears, and smoking cessation supports. For more information on the preventive health services generally, please see [Access to Preventive Health Care for Women in the New Health Care Law: Frequently Asked Questions](#).

On August 1, 2011, the list was expanded to include birth control alongside other women's preventive services, such as an annual well-woman visit.

### **What types of birth control are now covered with no cost sharing?**

The full range of FDA-approved contraceptive methods is included. This means a woman can access oral contraception (the pill), injectables, the ring, contraceptive implants, diaphragms, cervical caps, and non-surgical permanent contraceptives without paying a co-payment or having the costs applied to her deductible. Sterilization for women is also covered with no co-pay or deductible.

### **Does this mean I won't have to pay anything for my birth control?**

You will be able to get your birth control at no out-of-pocket costs, as the full cost will be covered by your monthly premium. Before this new rule, insurance plans usually only covered a portion of the cost of birth control and women would have to pay the additional cost out of pocket, in the form of a co-payment or co-insurance. This new rule means that birth control, along with the other preventive services, will be *fully covered* by insurance plans. Plans will not be able to charge extra payments for these services, such as co-payments or deductibles. With this new requirement, the cost of birth control will be fully covered by the monthly premium consumers already pay, without any extra payments.

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<sup>1</sup> Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148, § 1001, 124 Stat. 119, 131 (2010) (to be codified at 42 U.S.C. § 300gg-13).

### **Won't this make my monthly premiums go up?**

While we can't say for certain, there is strong evidence that covering contraceptives actually produces cost savings, because maternity, infant, and dependent care are more expensive than family planning services. According to the National Business Group on Health (NBGH), a non-profit organization representing employers' perspectives on national health policy issues, the cost of adding contraceptive coverage to a health plan is more than made up for in expected cost savings.<sup>2</sup> And when contraceptive coverage was added to the federal employee plan, premiums did not increase because there was no resulting health care cost increase.<sup>3</sup>

### **When do these new requirements take effect?**

Although many private insurance plans have already started providing some of the preventive services as of January 1, 2011, the requirement that all new plans cover the additional Women's Preventive Services – including contraception – has not yet taken effect. The official start date is August 1, 2012, but since most plan changes take effect at the beginning of a new plan year, the requirements will be in effect for most plans on January 1, 2013. School health plans, which often begin their health plan years around the beginning of the school year, will see the benefits of the August 1st start date.

### **I get health insurance through my employer, how do I know if my plan is new and if these requirements apply to my plan?**

Health plans that existed before the health care law are considered “grandfathered” into the new system under the health care law.<sup>4</sup> Grandfathered plans don't have to follow the new preventive services cost sharing rules. This means that the plan can continue to operate just as it has until it makes significant changes to the plan. These changes include: cutting benefits significantly; increasing co-insurance, co-payments, or deductibles or out-of-pocket limits by certain amounts; decreasing premium contributions by more than 5%; or, adding or lowering annual limits.<sup>5</sup>

Un-grandfathered plans are group health plans created after March 23, 2010 or individual health plans purchased after that date, which is when the health care law was signed by the President. All un-grandfathered private health plans have to follow the new preventive health services coverage and cost-sharing rules. When you hear that “all new health plans” have to cover these services, it means that all “un-grandfathered” plans must cover them.

### **Will my plan ever become “un-grandfathered” and have to follow the new rule?**

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<sup>2</sup> KP Campbell, Nat'l Bus. Group on Health, *Contraceptive Use Evidence-Statement: Counseling and Preventive Intervention*, in A Purchaser's Guide to Clinical Preventive Services: Moving Science into Coverage, (KP Campbell et al. ed., 2006).

<sup>3</sup> When the FEHBP contraceptive coverage requirement was implemented, the Office of Personnel Management (OPM), which administers the program, arranged with the health carriers to adjust the 1999 premiums in 2000 to reflect any increased insurance costs due to the addition of contraceptive coverage. But OPM found that no such adjustment was necessary, and reported that “there was no cost increase due to contraceptive coverage.” Letter from Janice R. Lachance, Dir., U.S. Office of Pers. Mgmt. (Jan. 16, 2001) (on file with NWLC).

<sup>4</sup> See Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148, § 1251, 124 Stat. 119, 161-62 (2010) (to be codified at 42 U.S.C. § 18011).

<sup>5</sup> Preservation of Right to Maintain Existing Coverage, 45 CFR § 147.140 (2011).

Yes. A recent survey found that 90% of all large U.S. companies expect that their health plans will lose grandfathered status by 2014.<sup>6</sup> Eventually all plans will lose their grandfathered status and distinctions between the two types of plans will disappear. At that point, all plans will cover contraception without cost sharing.

### **What about women on Medicaid?**

Most women on Medicaid already have access to contraception without co-payments.<sup>7</sup> However, the new health care law expands the group of people who are eligible for Medicaid and requires that this new group of Medicaid enrollees have access to the preventive health services, including the full range of contraceptive coverage, without cost sharing.<sup>8</sup> This means that some women on Medicaid in some states may have access to these benefits, but others may not.

### **What about women who are students and enrolled in a student health plan?**

The new contraceptive coverage requirement applies to both group and individual health insurance.<sup>9</sup> Student health plans are considered a type of individual health insurance,<sup>10</sup> and therefore must comply with the preventive health services requirement. In other words, student health plans must offer the preventive health services, including contraceptive coverage, without cost-sharing. The only plans excepted from this requirement are self-funded student health plans.<sup>11</sup>

### **Are religious organizations exempt from these requirements?**

A segment of religious employers, such as churches and other houses of worship, are exempt from this contraceptive coverage requirement.<sup>12</sup> The Administration has proposed an “accommodation” for other, undefined “religious organizations” that allows them to avoid providing contraceptive coverage, but ensures that all women receive contraceptive coverage without cost sharing. For more information on this proposed accommodation, please see our fact

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<sup>6</sup> Stephen Miller, Society for Human Resources Management, *Nine of 10 Big Companies Expect to Lose Grandfathered Status* (Aug. 20, 2010), <http://www.shrm.org/hrdisciplines/benefits/Articles/Pages/GrandfatherStatus.aspx>.

<sup>7</sup> The Kaiser Family Found. & the Guttmacher Inst., *Medicaid’s Role in Family Planning (2007)* available at [http://www.kff.org/womenshealth/upload/7064\\_03.pdf](http://www.kff.org/womenshealth/upload/7064_03.pdf).

<sup>8</sup> The Supreme Court held in its decision on the Affordable Care Act that states need not participate in the expansion of Medicaid as a condition of continuing to receive their current Medicaid funding. *Nat’l Fed’n of Indep. Bus. et al. v. Sebelius*, 567 U.S. \_\_\_ (2012).

<sup>9</sup> *Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services Under the Patient Protection and Affordable Care Act*, 45 CFR § 147.130 (2012).

<sup>10</sup> *Health Insurance Reform Requirements for the Group and Individual Health Insurance Markets*, 45 C.F.R. § 147.145 (2012).

<sup>11</sup> While for most university health plans, the student contracts directly with the health insurance company for insurance, a very small number of universities provide self-funded health plans to students. Such self-funded student plans are not considered individual health insurance and are not covered by the preventive services rule.

<sup>12</sup> Specifically, the Final Rules define an employer that can invoke the exemption as one that: (1) Has the inculcation of religious values as its purpose; (2) primarily employs persons who share its religious tenets; (3) primarily serves persons who share its religious tenets; and (4) is a non-profit organization under section 6033(a)(1) and section 6033(a)(3)(A)(i) or (iii) of the tax code. Section 6033(a)(3)(A)(i) and (iii) refer to churches, their integrated auxiliaries, and conventions or associations of churches, as well as to the exclusively religious activities of any religious order. *Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services Under the Patient Protection and Affordable Care Act*, 45 C.F.R. § 147.130 (2012).

sheet [Contraceptive Coverage “Accommodation” of Other “Religious Organizations”:  
Frequently Asked Questions](#).

**I like this part of the health care law, but I have heard that some people are trying to repeal it. What can I do to keep this important new benefit?**

You should tell your Member of Congress that you support the health care law and that you support contraceptive coverage for all women, no matter who their employer is. You should also find out where candidates stand on these issues and make sure to vote.

**For more information on contraceptive coverage please visit  
[www.nwlc.org/contraceptivecoverage](http://www.nwlc.org/contraceptivecoverage).**