

FEDERAL POLICY SNAPSHOT

The Federal Contraceptive Coverage Guarantee: An Effective Policy That Should Be Strengthened and Expanded



Contraception is basic preventive health care and should be affordable and available for everyone. Under a provision of the Affordable Care Act (ACA) known as the federal contraceptive coverage guarantee, most private health insurance plans in the United States must cover the full range of contraceptive methods, services and counseling without patient out-of-pocket costs like copayments or deductibles. A substantial body of evidence confirms that the contraceptive coverage guarantee has had a positive impact since it took effect in 2012—dramatically reducing patients’ costs and helping them to use the birth control method of their choice and to use it effectively. Federal policymakers should strengthen contraceptive coverage protections and extend them to everyone in the United States, regardless of how they get their health insurance.

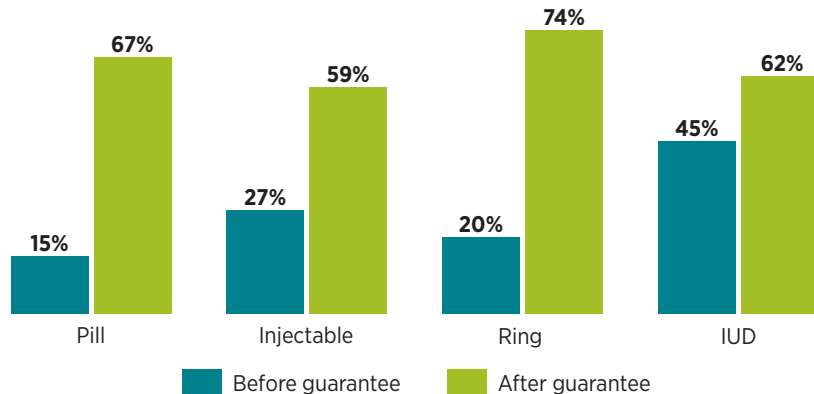
How the contraceptive coverage guarantee works

- The federal contraceptive coverage guarantee is a part of a broader requirement under the ACA for most private health plans to cover a wide range of preventive services without copayments, deductibles or other out-of-pocket costs. In 2011, the Health Resources and Services Administration (HRSA) adopted expert recommendations for what must be covered as women’s preventive services, a list that included the full range of contraceptive methods, counseling and services. Contraception was reaffirmed as preventive care in updated recommendations adopted by HRSA in 2016.
- A large majority of private health plans—including most offered by employers, schools and unions and those offered through the ACA’s health insurance marketplaces—are subject to the contraceptive coverage requirement.
- Some plans or entities are exempt from the contraceptive coverage requirement:
 - > “Grandfathered” plans, which enrolled 14% of covered workers in 2020 and are exempt from many ACA requirements.
 - > “Church plans,” which are plans established by houses of worship and other religiously affiliated nonprofits; they are exempt from federal enforcement under the ACA’s preventive services requirement.
 - > An employer or university claiming a religious or moral objection to covering contraception can exclude such coverage from health plans offered to employees or students. Even after multiple rounds of federal rulemaking and four cases considered by the U.S. Supreme Court, litigation on these exemptions continues.
- Plans subject to the federal contraceptive coverage guarantee must cover each distinct “female-controlled” method (such as progestin-only oral contraceptive pills or copper-based IUDs) as categorized by the U.S. Food and Drug Administration (FDA), as well as counseling, services needed to initiate or discontinue use, and follow-up care. The guarantee has been interpreted to exclude external (male) condoms and vasectomy. Health plans are allowed to require a prescription for over-the-counter (OTC) products (such as emergency contraception) and may exclude services and methods provided out of network.
- Federal guidance specifically bars plans from denying coverage for services based on sex assigned at birth, gender identity or gender as recorded by the insurer, and limits but does not fully bar plans’ use of gatekeeping (known as “medical management techniques”), such as formularies or prior authorization, that can make it difficult for enrollees to obtain their preferred products or services. Health plans have not always complied with these rules.
- In addition to the ACA requirement, 29 states and the District of Columbia have their own contraceptive coverage requirements for private insurers, which must comply with both federal and state laws. While state laws apply to a smaller subset of health plans (most notably, they do not apply to employers that “self-insure,” rather than buying traditional insurance), some states go beyond the federal guarantee by requiring coverage for OTC methods without a prescription, for vasectomy or for an extended (e.g., 12-month) supply of a method at one time.

Impact of the contraceptive coverage guarantee

- Contraceptive methods and services can be prohibitively expensive for many patients. Eliminating these costs through insurance coverage can help people use their preferred methods. That, in turn, can facilitate effective contraceptive use and protect against being coerced into using particular methods.
- Numerous studies confirm that the federal contraceptive coverage guarantee has dramatically reduced patients’ out-of-pocket spending. For example, between

After the federal contraceptive coverage guarantee took effect, the proportion of privately insured women who paid \$0 out of pocket for contraceptives increased dramatically



fall 2012 and spring 2014 (during which time the coverage guarantee went into wide effect), the proportion of privately insured women who paid nothing out of pocket for the pill increased from 15% to 67%, with similar changes for injectable contraceptives, the vaginal ring and the IUD.

- One in five (21%) privately insured women still paid some amount out of pocket for contraceptive care in 2020, likely because of gaps in the federal coverage guarantee and health plans' failure to comply with it.
- More than two-thirds (69%) of obstetrician-gynecologists in a 2020 survey reported that the share of patients using their desired contraceptive method had increased in the years since the federal coverage guarantee took effect.
- Multiple studies (summarized in several reviews of relevant research) suggest that the guarantee has increased use of prescription methods—particularly IUDs and implants—and consistent contraceptive use. One study found that the federal provision was associated not only with increased contraceptive use but also with a decline in births, especially among low-income women—a population that may benefit the most from knocking down financial barriers to using contraception.

- Contrary to the false claims of some activists opposed to contraception, every FDA-approved contraceptive method is effective at preventing pregnancy, and there is a strong scientific consensus that providing people access to contraceptive information and services does not increase sexual activity.

What policymakers can do

To strengthen and extend federal contraceptive coverage protections, Congress and the Biden-Harris administration should take the following steps:

- **Clarify and update federal guidance on the contraceptive coverage guarantee.** Federal agencies should:
 - > Update and maintain the list of distinct contraceptive methods as new products are approved.
 - > Reiterate and enforce the requirement that health plans cover all costs related to contraceptive use, including all services needed to begin, end or change methods.
 - > Update federal interpretation of the ACA provision to require plans to cover OTC methods without a prescription, a 12-month supply of contraceptives at one time and contraceptive methods used by partners (such as external condoms and vasectomy).

- > Require health plans to establish clear processes to ensure coverage for provider-recommended contraceptives, even when the product is not on a plan's formulary.
- > Coordinate and standardize guidance, oversight and enforcement activities as consistently as possible across every relevant federal agency and program.

- **Rescind the Trump-Pence administration's sweeping and harmful religious and moral exemptions** to the contraceptive coverage guarantee and return to a regulatory framework that ensures patients have contraceptive coverage without out-of-pocket costs, regardless of their employer's beliefs.
- **Pass legislation to address gaps** in contraceptive coverage in specific health insurance programs, such as the military TRICARE program.
- **Write and pass legislation** to require comprehensive coverage of reproductive health care—including for contraceptive methods, services and counseling—across all types of public and private health plans, either as stand-alone legislation or as part of broader health care reform initiatives.

Sources

Links to source materials, related resources and other Federal Policy Snapshots are available at <https://www.gutmacher.org/fact-sheet/contraceptive-coverage-guarantee>.



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[gutmacher.org](https://www.gutmacher.org)

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