

Insurance Coverage for Contraception in Illinois: Looking Ahead

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Contraceptive Coverage in the Affordable Care Act

Access to effective contraceptive methods can help women plan their pregnancies, improve birth spacing, and avoid unintended pregnancy, all of which lead to significant health, social and economic benefits.^{1,2} The Affordable Care Act (ACA) currently requires most health insurance plans to provide coverage for a range of contraceptive methods without cost sharing. Coverage is defined by federal guidance to mean at least one product for each of the 18 contraceptive methods³ identified by the FDA for women.⁴ Women in particular are more likely to defer care if cost is a barrier, and the prohibition on cost sharing means that the covered individual should not pay out of pocket for the contraception in the form of a deductible, copayments, or coinsurance.⁵ Plans can still restrict coverage by using “reasonable medical management techniques,” but must also have a waiver process available to override that exception in times of medical necessity. Further, the plans must also cover counseling services, device insertion, and device removal services at an in-network provider. Following the ACA’s implementation, nine out of ten insured women had no out-of-pocket costs for an IUD in 2014 and the share of women of reproductive age who had out-of-pocket spending on oral contraceptive pills fell sharply from 21% in 2012 to 4% in 2014.^{6,7}

The ACA’s Contraceptive Coverage in Practice

In reality, not every contraceptive product is covered under the ACA. Plans are only required to cover one product in any method category; other distinct versions of a method are not necessarily included, limiting options for women. A chart from the National Health Law Program comparing coverage of contraception under the ACA to more progressive state laws is helpful in demonstrating some of the deficits (Table 1). For instance, plans can exclude certain products or limit coverage to a generic version of a certain method.⁸ Some plans still impose cost-sharing or erect other barriers that hinder an individual’s ability to easily obtain the method they prefer.⁹ Guidance under the ACA does not require coverage of male versions of contraception. It also allows issuers to impose prescription requirements on over-the-counter (OTC) methods like emergency contraception, meaning that women must take additional steps to get these covered. Research, including a review of Illinois plans done by the University of Chicago and EverThrive Illinois, has also shown that it can be very confusing and challenging for a consumer to learn about a plan’s scope of coverage.⁸

The Illinois Contraceptive Coverage Act

The Illinois Contraceptive Coverage Act (HB 5576) was introduced in February 2016 to address gaps in ACA coverage and to more closely align with Illinois’ comprehensive Medicaid coverage of contraception. It requires most private insurers regulated by the state to cover all contraceptive products approved by the FDA without cost sharing, including vasectomies and OTC methods. These insurers may only limit coverage within a method when two products have the same active ingredients and safety profile. If a product is not covered, plans must have an “easily accessible, transparent and sufficiently expedient process that is not unduly burdensome to the individual” to obtain coverage.¹⁰ The law prohibits certain medical management techniques that can delay or prevent coverage and allows women to fill up to twelve months’ worth of a prescription at once, without additional cost sharing. The Illinois Contraceptive Coverage Act goes into effect on January 1, 2017, though plans are not required to comply until their date of renewal.

Looking Ahead

President-Elect Donald Trump has suggested his administration will seek to repeal, replace or amend the ACA when he takes office in January 2017. If the ACA is altered, the federal regulations requiring contraceptive

coverage could be removed as well. Even if the ACA is not amended, these regulations could still be changed or withdrawn entirely. Because the provisions regarding coverage for women’s preventive services exist in the form of agency guidance for the Act and are not explicitly outlined in the ACA statute, the new Administration could simply provide new guidance or choose not to enforce current guidance.¹¹ Medicaid coverage for contraception in Illinois could also be affected by the new administration since the state’s program is federally funded. If funding for Medicaid or family planning services is reduced or the ACA’s Medicaid expansion revoked, the state may choose to make changes in how the program is administered. Such changes could mean scaling back eligibility for the program or reducing coverage for certain services.

However, because HB 5576 is a state insurance code provision, it would not be affected by a change in the ACA. Further, the language of HB 5576 was written to mirror the language of the guidance for contraceptive coverage under the ACA. Because HB 5576 does not refer to the ACA as is, but instead uses language meant to reinforce and expand contraceptive coverage, protection for covered individuals under HB 5576 remains the same in Illinois regardless of changes at the federal level. As the Table 1 demonstrates, several other states have also passed similar laws assuring coverage without cost sharing. If the ACA is modified or repealed, more states are likely to consider similar legislation to preserve contraceptive coverage.

Table 1. Comparing ACA and State Laws on Contraceptive Coverage

Comparison of Key Provisions					
	ACA	California	Maryland	Vermont	Illinois
Eliminates copayments for contraception	✓ (one per FDA method)	✓ (most methods)	✓ (most methods)	✓ (one per FDA method)	✓ (most methods)
Eliminates copayment for related services (e.g., counseling)	✓	✓	✓	✓	✓
Eliminates copayments for vasectomies			✓	✓	✓
Covers over-the-counter contraception			✓ (all medications, including emergency contraception)		✓ (all FDA-approved drugs, devices and other products, excluding male condoms)
Allows patients to fill multiple months of a prescription ²¹			✓ (6 month supply)	✓ (12 month supply)	✓ (12 month supply)

Source: Agata Pelka, *Health Advocate: States Expand Coverage of Contraception, 42 NHeLP* (September 2016).

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¹ Kavanaugh ML, Anderson RM. Contraception and beyond: the health benefits of services provided at family planning centers. New York: Guttmacher Institute; 2013.

² Sonfield A, Hasstedt K, Kavanaugh ML, Anderson RM. The social and economic benefits of women’s ability to determine whether and when to have children. New York: Guttmacher Institute; 2013.

³ The 18 methods are: sterilization surgery; sterilization implant; implantable rod; copper intrauterine device; IUDs with progestin; shot/injection; oral contraceptives (the pill) with estrogen and progestin; oral contraceptives with only progestin; extended or continuous use oral contraceptives; the patch; vaginal contraceptive ring; diaphragm; sponge; cervical cap; female condom; spermicide; and two different formulations of emergency contraception.

⁴ *Affordable Care Act Implementation Part XXVI*, U.S. Dep’t of Labor, Health & Human Serv., & Treasury (May 11, 2015), available at <http://www.dol.gov/ebsa/faqs/faq-aca26.html>

⁵ 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).

⁶ Kaiser Family Foundation analysis of Truven Health Analytics MarketScan Commercial Claims and Encounters Database, 2004-2014. Peterson-Kaiser Health System Tracker.

⁷ Bearak JM et al., Changes in out-of-pocket costs for hormonal IUDs after implementation of the Affordable Care Act: an analysis of insurance benefit inquiries, *Contraception*, 2015.

⁸ *Coverage of Contraception and Abortion in Illinois Qualified Health Plans*, Family Planning & Contraceptive Research University of Chicago (June 2015) available at <http://familyplanning.uchicago.edu/policy/publications-resources/coverage-family-planning-services.shtml>.

⁹ National Women’s Law Center, *The Affordable Care Act’s Birth Control Benefit: Progress On Implementation and Continuing Challenges* (July 29, 2016), <https://nwl.org/resources/the-affordable-care-acts-birth-control-benefit-progress-on-implementation-and-continuing-challenges/>.

¹⁰ Public Act 099-0672, Illinois General Assembly, available at: <http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=099-0672>.

¹¹ Sarah Kliff, *Trump Can End ObamaCare’s Free Birth Control*, *Vox* (November 10, 2016) available at <http://www.vox.com/2016/11/10/13578550/trump-obamacare-birth-control-iuds>.