



SB 1053 - The Contraceptive Coverage Equity Act of 2014 (Mitchell)

Overview

California Family Health Council (CFHC) and National Health Law Program (NHeLP) are proud to co-sponsor SB 1053 - the Contraceptive Coverage Equity Act. Introduced by Senator Holly Mitchell, this measure seeks to improve access to the full range of contraceptive methods approved by the Food and Drug Administration (FDA) for all insured individuals in California without cost-sharing, delays or denial of coverage. This legislation builds on current state and federal law to further California's leadership in preventing unintended pregnancy and expanding access to birth control for all.

Background

The Affordable Care Act (ACA) requires most health insurance carriers to cover the full range of birth control methods approved by the Food and Drug Administration (FDA) including sterilization services, without any out of pocket costs for women enrollees. While this requirement is a welcomed and significant step forward, lack of clarity in the federal law has led to inadequate and inconsistent implementation. Federal regulations permit carriers to employ "reasonable medical management techniques" but do not define the term or provide clear guidance about when medical management in the context of contraceptive coverage is and is not permitted. This flexibility has led to reports of insurer practices and policies that create delays in access or deny coverage of certain methods altogether in spite of the broad coverage requirement. According to prevailing medical standards of care, a woman's choice in consultation with her health care provider should be the primary factor in determining her contraceptive method. Medical management techniques that disfavour or create barriers to particular methods not only deprive women of their reproductive autonomy, but they also increase risk of unintended pregnancy and undermine the intent of the coverage requirement.

In addition, the federal law failed to recognize the important role that men play in preventing unintended pregnancy. The ACA's coverage requirement does not extend to men or include male methods of contraception. This exclusion allows carriers to deny coverage of vasectomy services and condoms, forcing men to continue paying out of pocket if they choose to share in the responsibility for preventing unintended pregnancy. According to a recent article in *Contraception Journal*, many insurance carriers do not cover vasectomy at all, and because the cost of a vasectomy is so high, even when insurers provide coverage for the procedure, the remaining co-pay may still be significant.¹

¹ Brian T. Nguyen et al., *Putting the Man in Contraceptive Mandate*, *Contraception: An International Reproductive Health Journal*, Jan. 2014, available at <https://www.arhp.org/publications-and-resources/contraception-journal/january-2014>.

As ACA implementation moves forward, now is the time to build and improve upon the progress made at the federal level to ensure that all Californians with health insurance – through Covered California, private or employer based coverage or Medi-Cal Managed Care – have contraceptive coverage that is comprehensive, fair and consistent.

Plan documents and online formulary databases demonstrate a wide variety of interpretations of the federal coverage requirements, resulting in a patchwork of contraceptive coverage policies for enrollees across the state. For example:

- Some plans cover the full range of FDA approved methods as required, while others appear to limit or exclude intrauterine devices (IUDs) and the contraceptive implant from their formularies.
- At least one California insurance carrier excludes the newest emergency contraceptive, ella, from their no-cost formulary tier, despite the fact that it is listed by the FDA as a distinct method² and is significantly more effective in women with higher Body Mass Indexes.
- Some carriers appear to impose co-pays on the contraceptive ring and patch under the flawed theory that because they deliver the same hormonal ingredient used in certain oral contraceptives, they should not qualify as distinct methods.³

SB 1053 - The Contraceptive Coverage Equity Act – Key Provisions

SB 1053 seeks to improve access to the full range of FDA approved methods of contraception for all individuals in California with health insurance by building on current state and federal law to:

- Require insurance coverage of all FDA approved methods, voluntary sterilization and comprehensive contraceptive counseling without restrictions or cost-sharing;
- Create equity in the contraceptive coverage mandate by eliminating co-pays for birth control for men.

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Learn about the sponsors at www.cfhc.org and www.healthlaw.org

² Adam Sonfield, *Implementing the Federal Contraceptive Coverage Guarantee: Progress and Prospects*, 16(4) *Guttmacher Policy Review* 8, 10 (2013), available at <http://www.guttmacher.org/pubs/gpr/16/4/gpr160408.html>.

³ *Id.*