

Congress of the United States

Washington, DC 20510

March 10, 2022

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

The Honorable Martin J. Walsh
Secretary
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

The Honorable Janet Yellen
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Secretaries Becerra, Walsh, and Yellen:

We write to thank you for your recent guidance published on January 10, 2022 (“FAQ’s about Affordable Care Act Implementation Part 51”), and to encourage you to take further action to ensure access to contraceptive care for all patients. As your guidance outlined, we have heard similar reports that insurance plans and pharmacy benefit managers (PBMs) are not complying with the Affordable Care Act (ACA) contraception coverage requirement. We urge you to build on your recent guidance by taking enforcement steps under the ACA and by increasing education to patients and providers so they understand their rights under the law.

As you know, the ACA requires most health plans to fully cover all Food and Drug Administration (FDA)-approved contraceptive methods for women. Agency guidance clarifies that insurers must cover at least one form of each FDA-approved contraceptive method without cost-sharing. Regulations also require an easily accessible and transparent exceptions process in cases when a plan does not cover a specific product, to ensure patients receive the best product for them with no co-pay and in a timely manner.

Before the ACA, contraception accounted for up to 44 percent of women’s out-of-pocket health care costs. **The ACA has decreased costs and improved health outcomes for women.** As of 2021, 62.1 million women had birth control coverage with no out-of-pocket costs.

Despite this progress, we have heard from constituents, patient advocates, providers, and manufacturers that plans routinely refuse to cover certain products, impose administrative hurdles like prior authorizations and step therapy, and require unallowable patient cost-sharing. **These actions violate current guidelines.** Such burdens disproportionately impact low-income patients, communities of color, people with disabilities, and LGBTQ+ individuals.

We were encouraged to see your recent guidance acknowledge such reports of non-compliance and clarify plans’ obligations under the ACA to cover contraception. We hope insurers view this

guidance as an indication of your commitment to ensuring all patients have access to the contraception they need without cost-sharing, as the ACA intended. Additionally, we are pleased your Departments have indicated they are actively investigating reports of non-compliance. To ensure continued progress in improving contraceptive access, we urge you to:

1. **Enhance enforcement of the ACA’s contraceptive coverage requirement and your recent guidelines across all health insurance plans subject to the ACA.** According to a recent survey by Nurse Practitioners in Women’s Health, 60 percent of providers report “almost always” or “frequently” encountering coverage barriers when prescribing brand-name contraceptives, 52 percent report insurers “almost always” or “frequently” deny prior authorizations for branded contraceptives, and 84 percent report patients experience delays in beginning birth control due to administrative hurdles. Ten years into the ACA, enforcement is clearly necessary to ensure patients receive the contraceptive product they determine is best for them, in consultation with their provider. **We urge your agencies to utilize the ACA’s robust enforcement procedures, respond to reported violations, and hold non-compliant insurers accountable.**
2. **Improve public awareness around the ACA’s contraceptive coverage requirement.** Research indicates that 60 percent of individuals are “not aware” or have “limited knowledge” of the ACA’s guidelines on contraceptive cost-sharing. We must ensure patients and providers have all the information they need about their rights to access their preferred method of contraception without cost-sharing and recourse options if their insurance plan is not in compliance with the law. **We urge you to invest in outreach and education campaigns through provider networks and directly to patients to improve understanding of rights to \$0-cost-sharing birth control under the ACA, and to ensure patients and providers understand processes for reporting violations.**

We thank you for your attention to these issues, and we look forward to working together to continue to improve patients’ health and ensure full access to contraceptive coverage as required by the ACA. If we can be of further assistance, please contact Becca Flikier in the Office of Representative Lois Frankel at Becca.Flikier@mail.house.gov or (202) 441-1667.

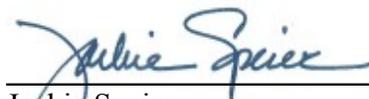
Sincerely,



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Co-Chair
Democratic Women's Caucus



Brenda L. Lawrence
Co-Chair
Democratic Women's Caucus



Jackie Speier
Co-Chair
Democratic Women's Caucus



Diana DeGette
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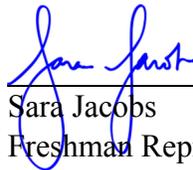
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Sara Jacobs
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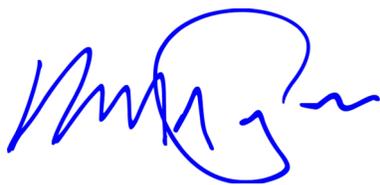
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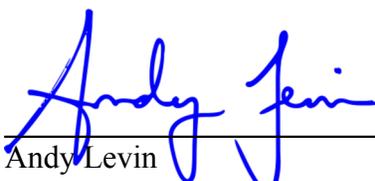
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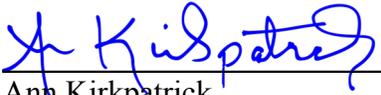
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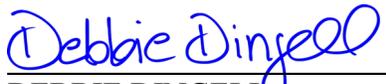
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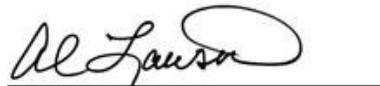
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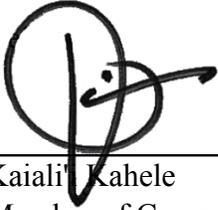
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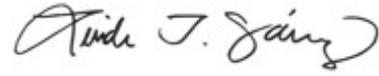
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Cc:

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Susan Rice, Director of the Domestic Policy Council
Dr. Ellen Montz, Deputy Administrator and Director, Center for Consumer Information and Insurance Oversight
Jessica Marcella, Deputy Assistant Secretary for Population Affairs
Carole Johnson, Administrator, Health Resources and Services Administration
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