

116TH CONGRESS
1ST SESSION

H. R. 3296

To require group health plans and group or individual health insurance coverage to provide coverage for over-the-counter contraceptives.

IN THE HOUSE OF REPRESENTATIVES

JUNE 14, 2019

Ms. PRESSLEY (for herself, Ms. OCASIO-CORTEZ, Ms. HILL of California, Mr. BERA, and Ms. OMAR) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Education and Labor, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To require group health plans and group or individual health insurance coverage to provide coverage for over-the-counter contraceptives.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Affordability is Access
5 Act”.

1 **SEC. 2. PURPOSE.**

2 The purpose of this Act is to ensure timely access
3 to affordable birth control by requiring coverage without
4 cost-sharing for oral birth control for routine, daily use
5 that is approved by, or otherwise legally marketed under
6 regulation by, the Food and Drug Administration for use
7 by women without a prescription.

8 **SEC. 3. FINDINGS.**

9 The House of Representatives finds the following:

10 (1) Birth control is critical health care that al-
11 most all women will use at some point in their life-
12 times.

13 (2) Access to the full range of reproductive
14 health care, including birth control coverage as guar-
15 anteed under Federal law, provides women with the
16 opportunity to lead healthy lives and get the care
17 they need to reach their goals.

18 (3) Family planning has well-documented
19 health benefits for women, newborns, families, and
20 communities and can lower the risk of harm to ma-
21 ternal and infant health.

22 (4) An estimated 66,000,000 women of repro-
23 ductive age (ages 15 through 44) live in the United
24 States, of which nearly 70 percent are at risk of
25 having an unintended pregnancy. Sixty percent of
26 women of reproductive age are using a contraceptive

1 method and 10 percent of women at risk for unin-
2 tended pregnancy are not using contraception. The
3 rates of non-use of contraception are highest among
4 those between 15 and 19 years old.

5 (5) The birth control benefit enacted under the
6 Patient Protection and Affordable Care Act (Public
7 Law 111–148) has been a crucial step forward in
8 advancing access to birth control and has helped en-
9 sure nearly 62,800,000 women have the power to de-
10 cide for themselves if and when to start a family.

11 (6) Despite legal requirements for birth control
12 coverage and access to services, gaps remain for mil-
13 lions of women. A national survey found that 1 in
14 3 women have struggled to afford birth control at
15 some point in their lives, and as a result, have used
16 birth control inconsistently. Access to birth control is
17 particularly difficult for women who live in contra-
18 ceptive deserts and lack reasonable access to a
19 health center that offers the full range of contracep-
20 tive methods.

21 (7) Health disparities persist among low-income
22 women, women of color, and women who lack access
23 to health coverage and health care providers.

24 (8) There are numerous social and economic
25 barriers that make it harder to access birth control,

1 including rising income and wealth inequality, gaps
2 in insurance coverage and challenges accessing
3 health providers.

4 (9) Leading health experts support over-the-
5 counter birth control pills.

6 **SEC. 4. SENSE OF THE HOUSE OF REPRESENTATIVES.**

7 It is the sense of the House of Representatives that—

8 (1) in order to increase women’s access to oral
9 birth control, it must be both easier to obtain and
10 affordable and, to make it either easier to obtain or
11 more affordable, but not both, is to leave unaccept-
12 able barriers in place for women;

13 (2) it is imperative that the entities that re-
14 search and develop oral birth control and whose
15 medical and scientific experts have developed clinical
16 and other evidence that oral birth control for rou-
17 tine, daily use is safe and effective for women when
18 sold without a prescription, apply to the Food and
19 Drug Administration for review and approval for
20 sale of such birth control without a prescription;

21 (3) upon the receipt of such an application, the
22 Food and Drug Administration should determine
23 whether the oral birth control meets the rigorous
24 safety, efficacy, and quality standards for over-the-
25 counter use under the Federal Food, Drug, and Cos-

1 metetic Act (21 U.S.C. 301 et seq.), and if the prod-
2 uct meets those standards, the Food and Drug Ad-
3 ministration should approve the application without
4 delay; and

5 (4) if and when the Food and Drug Adminis-
6 tration approves an oral birth control that is avail-
7 able over-the-counter, such birth control should be
8 covered by health insurance, without a prescription
9 and without cost-sharing.

10 **SEC. 5. CLARIFYING COVERAGE REQUIREMENTS.**

11 The Secretaries of Health and Human Services,
12 Labor, and the Treasury shall clarify that coverage of con-
13 traceptives pursuant to section 2713(a)(4) of the Public
14 Health Service Act (42 U.S.C. 300gg-13(a)(4)) includes
15 coverage of over-the-counter contraceptive methods ap-
16 proved by the Food and Drug Administration, even if the
17 enrollee does not have a prescription for the contraceptive.

18 **SEC. 6. RULES OF CONSTRUCTION.**

19 (a) NON-INTERFERENCE WITH FDA REGULA-
20 TION.—Nothing in this Act (or the amendment made by
21 this Act) shall be construed to modify or interfere with
22 Food and Drug Administration processes to review or ap-
23 prove, or otherwise determine the safety and efficacy of,
24 and make available, non-prescription drugs or devices,
25 modify or interfere with the scientific and medical consid-

1 erations of the Food and Drug Administration, or alter
 2 any other authority of the Food and Drug Administration.

3 (b) NON-PREEMPTION.—Nothing in this Act (or the
 4 amendment made by this Act) preempts any provision of
 5 Federal or State law to the extent that such Federal or
 6 State law provides protections for consumers that are
 7 greater than the protections provided for in this Act.

8 **SEC. 7. DUTIES OF RETAILERS TO ENSURE ACCESS TO**
 9 **ORAL BIRTH CONTROL FOR USE WITHOUT A**
 10 **PRESCRIPTION.**

11 (a) IN GENERAL.—Any retailer that stocks oral birth
 12 control for routine, daily use that is approved by, or other-
 13 wise legally marketed under regulation by, the Food and
 14 Drug Administration for use without a prescription may
 15 not interfere with an individual's access to or purchase
 16 of such birth control or access to medically accurate, com-
 17 prehensive information about such birth control.

18 (b) LIMITATION.—Nothing in this section shall pro-
 19 hibit a retailer that stocks oral birth control for routine,
 20 daily use from refusing to provide an individual with such
 21 oral birth control that is approved by, or otherwise legally
 22 marketed under regulation by, the Food and Drug Admin-
 23 istration if the individual is unable to pay for the birth
 24 control, directly or through insurance coverage.

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