

Administration of Joseph R. Biden, Jr., 2023

Executive Order 14101—Strengthening Access to Affordable, High-Quality Contraception and Family Planning Services

June 23, 2023

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy. Women should have access to the healthcare they need, including contraception and family planning services. Access to contraception is essential to ensuring that all people have control over personal decisions about their own health, lives, and families. High-quality contraception improves health outcomes, advances economic stability, and promotes women's overall well-being. Contraception access is linked to improved maternal and child health, expanded educational and professional opportunities, and higher lifetime earnings.

Through new requirements for private health coverage and expanded access to Medicaid, the Affordable Care Act extended access to affordable contraception to millions of women, helping them save billions of dollars on birth control. Yet access to high-quality contraception continues to vary based on income, location, health insurance coverage, and the availability of healthcare providers. Millions of people continue to face barriers to obtaining the contraception they need even as access has become more critical in the wake of the Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization*, 142 S. Ct. 2228 (2022), to overturn *Roe v. Wade*, 410 U.S. 113 (1973).

Given that the Supreme Court overruled *Roe*, which rested on the fundamental right to privacy in matters of health, bodily autonomy, and family, it has never been more important to protect and expand access to family planning services. *Dobbs* has already had, and will continue to have, devastating implications for women's health. In States with laws that restrict access to abortion, health clinics that provide contraception and other essential health services have shuttered, eliminating critical points of care. Some State officials have adopted policies interfering with access to emergency contraception, including for vulnerable populations. Such policies further threaten women's ability to make decisions about their own bodies, families, and futures. These threats persist despite decades of Supreme Court precedent, beginning with *Griswold v. Connecticut*, 381 U.S. 479 (1965), and *Eisenstadt v. Baird*, 405 U.S. 438 (1972), affirming the right to contraception. Moreover, an overwhelming majority of Americans support access to contraception.

In the wake of the Supreme Court's decision in *Dobbs*, I issued Executive Order 14076 of July 8, 2022 (Protecting Access to Reproductive Healthcare Services), and Executive Order 14079 of August 3, 2022 (Securing Access to Reproductive and Other Healthcare Services), to direct my Administration to take action to protect access to reproductive healthcare services, including contraception and abortion. In Executive Order 14076, I directed the Secretary of Health and Human Services and the Director of the Gender Policy Council to establish an Interagency Task Force on Reproductive Healthcare Access to coordinate these efforts across my Administration. Consistent with these Executive Orders and other applicable authorities, executive departments and agencies have taken numerous steps to protect and strengthen access to contraception, including:

(a) issuing guidance and convening sponsors of employee benefit plans and health insurers to clarify contraception coverage requirements under the Affordable Care Act;

(b) expanding walk-in contraceptive care services for active duty service members and other Military Health System beneficiaries;

(c) issuing a Notice of Proposed Rulemaking to improve access to affordable contraception for certain dependents of veterans;

(d) providing additional funding to bolster training, develop and expand telehealth infrastructure and capacity, and provide technical assistance for clinics funded under Title X of the Public Health Service Act (42 U.S.C. 300 *et seq.*) (Title X);

(e) strengthening the inclusion of family planning providers in insurance networks for qualified health plans under the Affordable Care Act;

(f) issuing a Notice of Proposed Rulemaking to provide a new pathway for women to access contraceptives when their private health coverage is exempt from covering this benefit;

(g) issuing a Notice of Proposed Rulemaking to strengthen privacy protections under the Health Insurance Portability and Accountability Act of 1996, Public Law 104–191, 110 Stat. 1936, as amended by Public Law 111–5, 123 Stat. 115 (2009), by proposing to prohibit doctors, other healthcare providers, and health plans from using or disclosing individuals' protected health information related to lawful reproductive healthcare, such as contraception use, under certain circumstances;

(h) issuing a Notice of Proposed Rulemaking to ensure healthcare providers that receive Federal financial assistance do not deny healthcare, including contraception, on the basis of any ground protected by Federal law; and

(i) reminding Health Resources and Services Administration (HRSA)-funded health centers of their obligations to provide family planning services to patients consistent with Federal requirements.

Through this order, I direct my Administration to build on this progress and further strengthen and bolster access to affordable, high-quality contraception. It remains the policy of my Administration to support access to reproductive healthcare services and to protect and defend reproductive rights in the face of ongoing efforts to strip Americans of their fundamental freedoms.

Sec. 2. Improving Access and Affordability Under the Affordable Care Act. (a) The Secretaries of the Treasury, Labor, and Health and Human Services (Secretaries) shall consider issuing guidance, consistent with applicable law, to further improve Americans' ability to access contraception, without out-of-pocket expenses, under the Affordable Care Act. In doing so, the Secretaries shall consider actions that would, to the greatest extent permitted by law:

(i) ensure coverage of comprehensive contraceptive care, including all contraceptives approved, granted, or cleared by the Food and Drug Administration, without cost sharing for enrollees, participants, and beneficiaries; and

(ii) streamline the process for patients and healthcare providers to request coverage, without cost sharing, of medically necessary contraception.

(b) The Secretaries shall consider additional actions, as appropriate and consistent with applicable law, to promote increased access to affordable over-the-counter contraception, including emergency contraception.

Sec. 3. Supporting Access Through Medicaid and Medicare. The Secretary of Health and Human Services, through the Administrator of the Centers for Medicare and Medicaid Services, shall consider taking steps, as appropriate and consistent with applicable law, to:

(a) expand access to affordable family planning services and supplies across the Medicaid program, including by identifying and disseminating best practices for providing high-quality family planning services and supplies, including through Medicaid-managed care; and

(b) improve coverage and payment for contraceptives for Medicare beneficiaries through Medicare Advantage and Medicare Part D plans.

Sec. 4. Additional Actions to Support Contraception Access. (a) To promote access to affordable, high-quality contraception, the Secretary of Defense, the Secretary of Veterans Affairs, and the Director of the Office of Personnel Management shall consider additional actions, as appropriate and consistent with applicable law, to:

- (i) ensure, where appropriate, robust coverage of contraception under Federal programs;
- (ii) offer technical assistance to help promote access to contraception, where relevant; and
- (iii) educate Federal program participants and beneficiaries on how to access affordable, high-quality contraception, including through public awareness initiatives that provide timely and accurate information about such access.

(b) To promote access to affordable, high-quality contraception across Federal healthcare programs and relevant human services programs, including through Title X clinics, HRSA-funded health centers, and the Indian Health Service, the Secretary of Health and Human Services shall consider taking actions, as appropriate and consistent with applicable law, to:

- (i) encourage all federally funded health centers, including HRSA-funded health centers, to expand the availability and quality of voluntary family planning services offered to beneficiaries;
- (ii) support healthcare providers that participate in the Title X program through new technical assistance and training;
- (iii) support access to culturally and linguistically appropriate care, including by developing and disseminating materials on family planning services available at federally funded health centers;
- (iv) provide guidance on contraception-related obligations, such as confidentiality protections, and technical assistance resources to funding recipients, where relevant; and
- (v) support research and data analysis to document gaps and disparities in access to contraception, as well as the benefits of comprehensive coverage for contraception and family planning services through public and private healthcare programs.

(c) The Secretary of Labor shall identify best practices for making affordable, high-quality contraception available to health plan enrollees, participants, and beneficiaries to share with employers and organizations that sponsor private health coverage.

(d) The Secretary of Education shall convene institutions of higher education to share best practices for making affordable, high-quality contraception available, as well as ways to raise awareness of options for accessing contraception.

Sec. 5. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

- (i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

JOSEPH R. BIDEN, JR.

The White House,
June 23, 2023.

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NOTE: This Executive order was published in the *Federal Register* on June 28.

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Subjects: Abortion; Contraception and family planning; Health insurance, access and availability; Medicare and Medicaid programs; Patient Protection and Affordable Care Act; U.S. Supreme Court opinion overturning 1973 decision in *Roe v. Wade*; Women's health issues.

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