



CONTRACEPTION

Contraception and Latinxs: A Needed Tool for Self-Determination

National Latina Institute for Reproductive Health (NLIRH) is the only national reproductive justice organization dedicated to building Latina power to advance health, dignity, and justice for 28 million Latinas, their families and communities in the United States through leadership development, community mobilization, policy advocacy, and strategic communications. NLIRH supports affordable, accessible, and quality contraception and counseling for all persons regardless of their age or gender identity. The Affordable Care Act (ACA) was a milestone in improving affordable access to contraception for the Latinx community.

Latinxs' views in the U.S. regarding contraception are quite nuanced given the history of exploitation regarding

women of color and their ability to decide whether and when to parent. Much of this exploitation occurred through sterilization abuse and the development and targeted promotion of reproductive health technologies in communities of color. Given this context, it is imperative to ensure that all individuals have access to the full range of contraceptive methods, without coercion, discrimination, and violence, so they can choose the one best for them. As we continue to see attacks against the self-determination of communities of color, women, and LGBTQ individuals, we must ensure that persons have the tools they need, including contraception, to make the best decisions for themselves and their families.

Contraception Improves Latinx Health and Well-Being

Contraception helps Latinxs plan their families and their futures, improving their health and well-being. Unfortunately, lack of access to affordable and available contraception further exacerbates the severe health inequities that Latinxs experience. These inequities include: unintended pregnancies,¹ lack of comprehensive sexuality education (CSE), and high rates of maternal mortality.² For instance, there is some evidence showing that lesbian, gay, and bisexual youth may experience unintended pregnancies at even higher rates than their heterosexual peers, suggesting that LGBTQ Latinx youth also need access to contraception

and CSE.³ In addition, contraception is vital to the standard of care for some Latinas facing illness and chronic conditions, such as lupus, diabetes, and heart disease.⁴ In light of the pervasive and severe health inequities that Latinxs face, resources and tools, such as contraception, which help decide when and whether to become pregnant are necessary to achieve positive health outcomes. The ability of Latinxs to access contraception and to ensure health equity for the Latinx community is threatened by political attacks to repeal the ACA. If repeal of the ACA were to happen, the inequities Latinxs face would worsen.

People of Faith, Including Latinxs, Use and Support Contraception and See It As An Essential Tool In Achieving Economic Security for Women



97%

of Latinas who have ever had sex have used contraception.⁵



95%

of married Catholic Latinas use modern contraception.⁶



77%

of millennial Catholics agree that all women should have the same access to contraception without copay regardless of who their employer is.⁷



Majorities of millennials of color who are also members of faith communities agree that easily accessible contraception is critical to a woman's economic security.⁸



Recent Successes Have Made Contraception More Available and Affordable for Latinxs

- After several years of advocacy efforts by activists and communities, in 2013, the Food and Drug Administration (FDA) finally approved Plan B One-Step, one type of emergency contraception, for over the counter sale to people of all ages.⁹ Emergency contraception can be used after unprotected sex to prevent an unintended pregnancy.¹⁰ Plan B One-Step and its generic forms are available over the counter and can be bought by anyone without a prescription or identification.¹¹ The ability to access emergency contraception without identification and over the counter is particularly important for immigrant women and transgender communities who may not have any identification credentials or identification that does not capture the person's chosen gender identity.
- Under the ACA, insurance plans must cover a wide range of preventive health services without copay for the patient, including cervical cancer screenings, breast feeding supplies and counseling, and the contraceptive coverage benefit ("benefit").¹² The benefit allows individuals to receive all FDA approved methods of contraception and related education and counseling without copays.¹³ Prior to the passage of the ACA, coverage of contraceptive services was widespread but insurers and employers could choose whether or not to provide coverage depending on state laws.¹⁴
- In 2015, the Departments of Labor, Health and Human Services, and Treasury issued guidance stating that insurance companies must cover sex-specific preventive health services for all individuals regardless of their sex assigned at birth, gender identity, or the gender that is on record for the individual's insurance plan.¹⁵ For transgender men of color who have a cervix and may face high rates of cervical cancer, screenings will increase their access to timely treatment and care for a disease that is largely preventable.
- Increasingly, states have begun to expand access to oral contraceptives. These states include: Washington, Oregon, California, Hawaii, Illinois, Vermont, Tennessee, and others.¹⁶ States such as Oregon and Virginia and the District of Columbia (DC) have passed laws that increase the supply of contraception an individual can receive when their contraception is dispensed by a pharmacist. In Oregon, insurers must pay for a three month supply of contraceptives when first prescribed, followed by a 12 month supply regardless of whether the person was insured by the same plan at the time they first obtained their contraception.¹⁷ This law only applies to oral contraceptives, the patch, and the vaginal ring.¹⁸ DC requires health insurers, including Medicaid, to cover a 12 month supply of FDA approved, prescribed contraceptives at once.¹⁹ Virginia has followed suit by passing legislation which requires that health plans cover up to a 12 month supply of prescribed hormonal contraception.²⁰ Laws such as these help Latinxs to plan their families and futures. One study showed that women who receive a year's supply of oral contraception were 30 percent less likely to experience an unintended pregnancy than women who receive one month or three month supplies of contraception at a time.²¹
- In 2016, Maryland passed the Maryland Contraceptive Equity Act which provides the most comprehensive coverage of contraceptive care in the United States. The law requires that insurers cover over-the-counter contraception, including emergency contraception.²² This law will go into effect for Maryland insurance plans in January 2018.²³ Moreover, this law increases the number of contraception options available without copay; provides for coverage of six months of contraception at a time; requires coverage of vasectomies without copay; and prohibits preauthorizations for LARC (long-acting reversible contraception) methods.²⁴
- Some states, including Illinois, Louisiana, and South Carolina, have developed and implemented new payment policies for LARCs.²⁵ These policies will allow individuals to have access to the full range of affordable contraception regardless of their income.



Barriers to Health Insurance Coverage Make it Harder for Immigrant Latinxs to Access and Afford Contraception

Immigrant women face numerous roadblocks in accessing affordable contraception. These include: lack of transportation, geographically inaccessible providers, pharmacy refusals and point of sales barriers, and affordability. However, one of the most pressing barriers in accessing contraception is inability to gain insurance coverage due to a person's immigration status.

- Despite the expansions in coverage for Latinxs under the ACA, the ACA prohibits undocumented immigrants from participating in the new Health Insurance Marketplaces. Undocumented immigrants continue to be barred from most public health coverage programs including Medicaid and the Children's Health Insurance Program (CHIP).
- The ACA also does not lift existing restrictions on lawfully present immigrants' eligibility for affordable and public health insurance programs like Medicaid. In 2012, HHS excluded those granted Deferred Action for Childhood Arrivals (DACA) from affordable and public health coverage options available to individuals with other forms of deferred action.²⁶
- Immigrant Latinxs are more likely to work in industries that do not offer health coverage and are less likely to afford costly private health insurance.²⁷ As such, legal barriers to public and affordable health coverage make it nearly impossible for these Latinxs to afford the care they need, often forgoing it to pay for other expenses.
- The ACA requires states to expand their Medicaid programs to enable low-income adults to participate in this cost-effective health coverage program, a provision which may provide health coverage for 95 percent of eligible, uninsured Latinxs.²⁸ However, a 2012 Supreme Court decision made this provision optional for states.²⁹ Governors and/or legislatures of states with high Latinx populations, including Texas and Florida, are blocking the implementation of Medicaid expansion, leaving many Latinxs without coverage. In fact, Texas and Florida have the largest proportion of Latinxs who are uninsured.³⁰

Other Barriers Persist in Realizing Access to Contraception for Latinxs and Other Communities

- Currently, there are no daily use, oral contraceptives available over the counter in the U.S. Many women in this country obtain oral contraception through a prescription from their providers that is then paid for by their insurance plans. This is an additional obstacle for Latinxs and others who have no insurance coverage or the ability to see a provider as they have fewer avenues to access contraception on a consistent basis. In one study comparing women who accessed oral contraceptives at clinics in El Paso, Texas, versus women accessing oral contraceptives over the counter at pharmacies in Mexico, women who accessed oral contraceptives at these pharmacies cited that lower costs and the ability to forgo a provider visit were reasons for why they preferred accessing oral contraceptives over the counter.³¹
- Although over 17 million Latinxs have received preventive health services under the ACA,³² some employers want to deny their employees their right to contraceptive coverage under this federal law. In 2014, the Supreme Court ruled in *Burwell v. Hobby Lobby* that "closely held" for-profit corporations could exclude the benefit from their health plans if they opposed the benefit on the basis of religious beliefs.³³ Prior to *Hobby*

Lobby, non-profit, religiously-affiliated employers could receive an "accommodation" to the benefit if they had the same objections to providing contraceptive coverage.³⁴ In 2015, closely held, for-profit corporations were able to receive the same "accommodation." Under the "accommodation,"³⁵ employers do not pay for this coverage, but their employees and dependents still receive it through their insurer.

Several religiously affiliated, non-profit employers have sought to undermine the benefit by bringing lawsuits arguing that the "accommodation" "substantially burdens" the exercise of their religious beliefs under the federal Religious Freedom Restoration Act (RFRA). In *Zubik v. Burwell*, the Supreme Court reviewed these lawsuits and sent them back to the lower courts for reconsideration.³⁶

Denials of coverage, such as those in *Zubik*, could create one more barrier to care for communities who already have little access to health services, particularly the employees of these companies. In 2013, Catholic hospitals employed over 500,000 full-time employees and over 200,000 part-time workers.³⁷ Many of the employees whose coverage is in question are people of color who often struggle to make ends meet. For instance, Black and Latinx people are the most represented in healthcare support occupations such



as medical assistants, nursing, psychiatric, and home health aides.³⁸ Direct care workers, which include home health aides, nursing assistants, and personal care aides,³⁹ have a median income of only \$16,100 per year and report unpredictable and part-time hours.⁴⁰

Recently, it was reported that nearly 10 percent of religiously affiliated non-profits with over 5,000 employees and 10 percent of those who have between 1,000 and 4,999 employees have asked for the accommodation.⁴¹ *Zubik* has the potential to deny these employees needed healthcare services, including contraception, and their ability to plan their families and their futures on the basis of their own personal, religious and moral beliefs.

- Title X, the only federally-funded family planning program, has experienced cuts over the past several years,⁴² negatively impacting the ability of many Latinxs to receive preventive care. Title X Family Planning Centers provide access to contraception and related information and services to anyone who needs them, but priority is given to persons who are low-income.⁴³ Thirty-two percent of Title X patients are Latinx.⁴⁴
- Several states have cut their healthcare safety-net programs in recent years, a phenomenon which is devastating for Latinxs and immigrant women and families who rely on these programs for reproductive healthcare. For example, in 2011, the state of Texas defunded its Women's Health Program, decimating the reproductive health safety net and leaving thousands of Latinas and immigrant women without an affordable primary source of care.⁴⁵

Recommendations

Recommendations for Congress:

- Keep the ACA and build upon its successes. Congress plans to repeal much of the ACA even though only three in ten individuals in the U.S. hold an unfavorable view of the replacement plan.⁵¹ Congressional members who oppose the ACA do not have a plan that would ensure the protections and benefits that many in our community need to be healthy. In fact, 71 percent of Latinx registered voters say the ACA is working well and should remain as it is or that it is working well and can be improved by decreasing out of pocket costs.⁵² The ACA is the first step in ensuring all communities have meaningful access to affordable, quality, culturally competent health coverage and care, including reproductive healthcare.
- Alongside severe cuts to funding for providers who serve our communities, abortion providers face hostile, politically motivated TRAP (targeted regulation of abortion providers) laws impacting their ability to provide the full range of reproductive healthcare services, including contraception care and counseling. In places such as Texas, due to the passage and partial implementation of these laws, approximately half of clinics providing abortion services have closed,⁴⁶ resulting in fewer, geographically accessible providers for 2.5 million Latinas of reproductive age.⁴⁷ These laws only not limit access to needed abortion services but also make access to contraception and cervical cancer screenings and other critical, preventive health services nearly impossible for communities who already experience severe health inequities.
- Although the ACA requires insurance plans to cover contraception and related services, some plans have not complied with this benefit. For instance, some do not cover all of the FDA-approved methods of contraception and some impose copays on patients.⁴⁸ Other plans only cover generic forms of contraception without copay for individuals or do not provide coverage for services and counseling related to contraception.⁴⁹ Other violations of the benefit include failure to cover sterilization services for dependents and refusing to cover women over the age of 50 with contraceptive needs.⁵⁰
- Support and pass legislation like H.R. 2788, the Health Equity & Access under the Law (HEAL) for Immigrant Women and Families Act. Federal and state policies which bar immigrants from participating in public and affordable health coverage programs on the sole basis of their immigration status contribute to very high uninsurance rates among immigrant women and families. The HEAL for Immigrant Women and Families Act lifts legal barriers to healthcare for immigrants authorized to live and work in the United States, including those granted DACA.
- Support robust funding for Title X Family Planning Programs in the appropriations process.
- Fully fund and implement the ACA, including Medicaid expansion in the states. Additionally, Congress should fully fund community health centers, which provide vital care for 35 percent of Latinxs.⁵³



- Support and pass legislation like the Real Education for Healthy Youth Act which provides young individuals, including Latinxs and other communities of color, the CSE they need to make healthy and informed decisions about their lives. States such as Texas and Florida have some of the highest rates of unintended pregnancies⁵⁴ and they are also states where many youth of color lack access to CSE.

Recommendations regarding implementation of the Affordable Care Act:

- Ensure all transgender persons can access the preventive health services made available under the Women's Health Amendment to the ACA. These services include: contraception, mammograms, cervical cancer screenings, prenatal care, and others.
- Both state and federal regulators should ensure that all plans are providing coverage of contraceptive care without copay to individuals, and educate communities and patients about the ACA's contraceptive coverage benefit.
- Robust implementation and enforcement of Section 1557 of the ACA. This provision of the ACA prohibits discrimination on the basis of race, color, national

origin, sex, age, and disability in health programs or activities supported by the federal government. Under this law, LGBTQ individuals, women, and other communities can no longer be discriminated against by health insurers, hospitals, doctors and others in the healthcare industry.

Recommendations for increasing access and affordability to contraception:

- Ensure that an oral contraception becomes available over the counter without a prescription. Once available, there should be no restrictions to access.
- States should pass and implement legislation that allow individuals to obtain a twelve month supply of contraception at one time, such as oral contraception, patches, and vaginal rings. This will make contraception more affordable and accessible by allowing individuals to make less trips to their providers for a prescription. In addition, this may increase consistent usage of contraception by individuals.

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