

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,



Lois Frankel
Co-Chair
Democratic Women's Caucus



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



Jackie Speier
Co-Chair
Democratic Women's Caucus



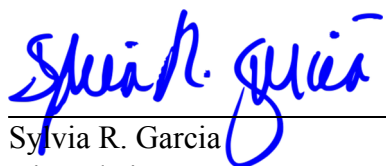
Diana DeGette
Co-Chair
Pro-Choice Caucus



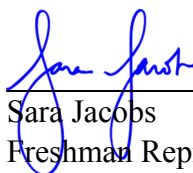
Barbara Lee
Co-Chair
Pro-Choice Caucus



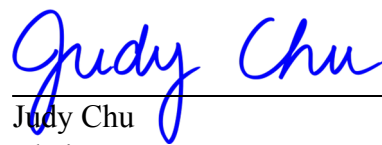
Veronica Escobar
Vice Chair
Democratic Women's Caucus



Sylvia R. Garcia
Vice Chair
Democratic Women's Caucus



Sara Jacobs
Freshman Representative
Democratic Women's Caucus



Judy Chu
Chair
Contraception and Family
Planning Task Force



Gwen S. Moore
Member of Congress



Nikema Williams
Member of Congress



MARK TAKANO
Member of Congress



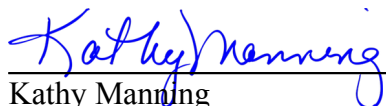
Nanette Diaz Barragán
Member of Congress



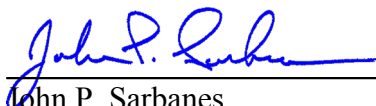
Eleanor Holmes Norton
Member of Congress



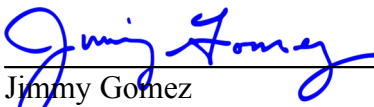
Gerald E. Connolly
Member of Congress



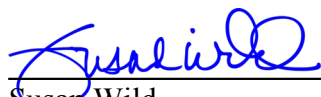
Kathy Manning
Member of Congress



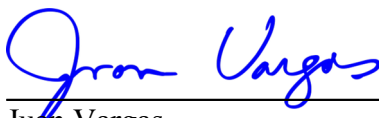
John P. Sarbanes
Member of Congress



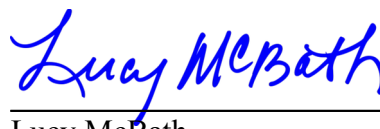
Jimmy Gomez
Member of Congress



Susan Wild
Member of Congress



Juan Vargas
Member of Congress



Lucy McBath
Member of Congress

André Carson

André Carson
Member of Congress



Dina Titus
Member of Congress



Marilyn Strickland
Member of Congress



Mark Pocan
Member of Congress



Alma S. Adams, Ph.D.
Member of Congress



Lauren Underwood
Member of Congress



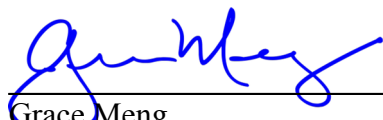
Ro Khanna
Member of Congress



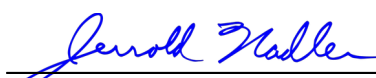
Ritchie Torres
Member of Congress



Katie Porter
Member of Congress



Grace Meng
Member of Congress



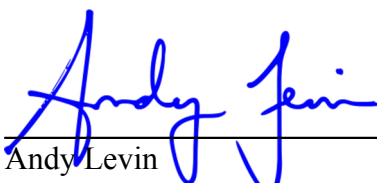
Jerrold Nadler
Member of Congress



Karen Bass
Member of Congress



Bill Foster
Member of Congress



Andy Levin
Member of Congress



Jan Schakowsky
Member of Congress



Yvette D. Clarke
Member of Congress



Marcy Kaptur
Member of Congress



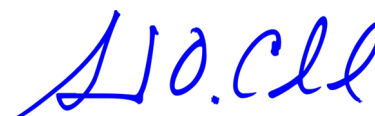
Lizzie Fletcher
Member of Congress



Scott H. Peters
Member of Congress



Anthony G. Brown
Member of Congress



Salud Carbajal
Member of Congress



Terri A. Sewell
Member of Congress



Julia Brownley
Member of Congress



Bonnie Watson Coleman
Member of Congress



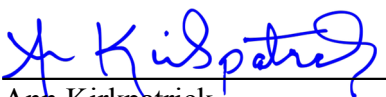
Donald M. Payne, Jr.
Member of Congress




Adriano Espaillat
Member of Congress



Steve Cohen
Member of Congress



Ann Kirkpatrick
Member of Congress



Danny K. Davis
Member of Congress



Betty McCollum
Member of Congress



Doris Matsui
Member of Congress



Alan Lowenthal
Member of Congress



David J. Trone
Member of Congress



Peter Welch
Member of Congress



Jamie Raskin
Member of Congress



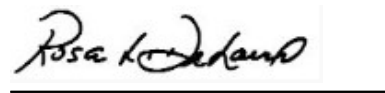
Kurt Schrader
Member of Congress



Suzan K. DelBene
Member of Congress



Peter A. DeFazio
Member of Congress



Rosa L. DeLauro
Member of Congress



DEBBIE DINGELL
Member of Congress



Ami Bera, M.D.
Member of Congress



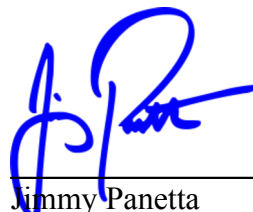
Jake Auchincloss
Member of Congress



Mike Quigley
Member of Congress



Chris Pappas
Member of Congress



Jimmy Panetta
Member of Congress



Debbie Wasserman Schultz
Member of Congress



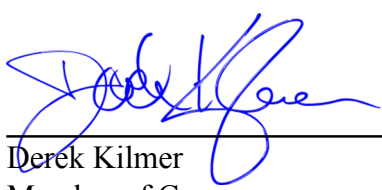
Jahana Hayes
Member of Congress



Henry C. "Hank" Johnson, Jr.
Member of Congress



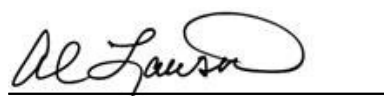
Mark DeSaulnier
Member of Congress



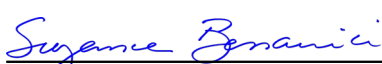
Derek Kilmer
Member of Congress



Maxine Waters
Member of Congress



Al Lawson
Member of Congress



Suzanne Bonamici
Member of Congress



Tony Cárdenas
Member of Congress



Rick Larsen
Member of Congress



Kim Schrier, M.D.
Member of Congress



C. A. Dutch Ruppersberger
Member of Congress



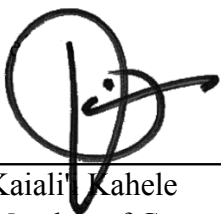
Lucille Roybal-Allard
Member of Congress



Lori Trahan
Member of Congress



A. Donald McEachin
Member of Congress



Kaiali'i Kahele
Member of Congress



David N. Cicilline
Member of Congress



Joseph D. Morelle
Member of Congress



Ann McLane Kuster
Member of Congress



Jamaal Bowman
Member of Congress



Marc A. Veasey
Member of Congress



Kathleen M. Rice
Member of Congress



Tom O'Halleran
Member of Congress



Kathy Castor
Member of Congress



John Yarmuth
Member of Congress



Chellie Pingree
Member of Congress



Darren Soto
Member of Congress



Colin Z. Allred
Member of Congress



Jason Crow
Member of Congress



Ed Case
Member of Congress



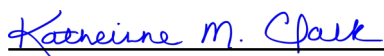
Jesús G. "Chuy" García
Member of Congress



Daniel T. Kildee
Member of Congress




Shontel M. Brown
Member of Congress



Katherine Clark
Member of Congress



Deborah K. Ross
Member of Congress



Raja Krishnamoorthi
Member of Congress



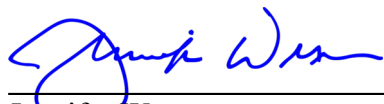
Brian Higgins
Member of Congress



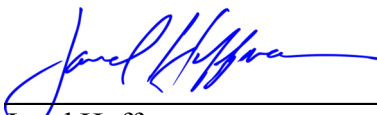
Sean Casten
Member of Congress



Earl Blumenauer
Member of Congress



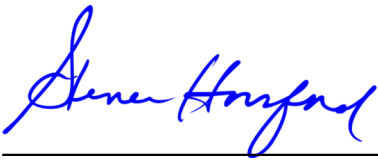
Jennifer Wexton
Member of Congress



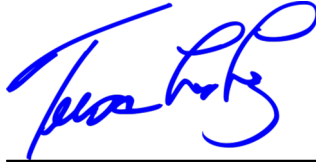
Jared Huffman
Member of Congress



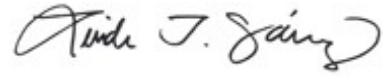
Jim Cooper
Member of Congress



Steven Horsford
Member of Congress



Teresa Leger Fernández
Member of Congress



Linda T. Sánchez
Member of Congress



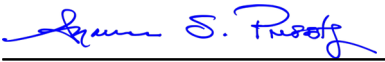
Ruben Gallego
Member of Congress



Marie Newman
Member of Congress



Carolyn Bourdeaux
Member of Congress



Ayanna Pressley
Member of Congress

Cc:

Chiquita Brooks-LaSure, Administrator, Centers for Medicaid & Medicare Services
Melanie Rainer, Counselor to the Secretary, Department of Health and Human Services
Jennifer Klein, Co-Chair and Executive Director, White House Gender Policy Council
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
Kiran Ahuja, Director, Office of Personnel Management