

Congress of the United States
Washington, DC 20515

October 26, 2017

The Honorable Steven Mnuchin
U.S. Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

The Honorable Alexander Acosta
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

The Honorable Eric Hargan
U.S. Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

Dear Secretary Mnuchin, Secretary Acosta, and Acting Secretary Hargan:

We write today in strong opposition to two interim final rules (IFRs) released on October 6, 2017, that may leave women across the United States without access to health insurance coverage for birth control. We call on the Administration to rescind these IFRs and restore policies that facilitate access to affordable contraception for millions of women.

Birth control is health care, plain and simple. The Administration's decision to isolate contraception from other health care benefits discriminates against women by forcing them to pay more for common health care services they need. It also ignores the well-established facts about contraception's important role in women's health. The harmful policies in the IFRs also take effect immediately despite the complete absence of an urgent public need justifying the abandonment of traditional notice-and-comment rulemaking.

Birth control is vital to both the nation's public health and women's health care in particular. It empowers women and their partners to decide when and how to start and grow a family. A few examples of how access to affordable contraception improves women's health include:

- It helps ensure healthy spacing between pregnancies, enabling women to avoid the risks that arise by getting pregnant less than 18 months after giving birth. A recent study found that "the most significant health risks are associated with the shortest birth intervals."¹
- It helps prevent poor birth outcomes and poor health conditions for women, including pregnant women. It reduces the risk of premature birth, placental abruption, low birth weight, and pre-eclampsia, among other health conditions. More than half of all women who take birth control pills rely on them for other medical purposes. Over one million of these women use birth control exclusively for non-contraceptive reasons.²
- It reduces the incidence of unintended pregnancy, and in turn, reduces the need for abortion. For example, the Contraceptive CHOICE Project revealed dramatic declines in unintended pregnancy among at-risk women who were given free contraception and

¹ DeFranco, Emily. Influence of Interpregnancy Interval on Birth Timing. *International Journal of Obstetrics and Gynecology* (2012).

² Jones, Rachel. Beyond Birth Control: The Overlooked Benefits of Oral Contraceptive Pills. Guttmacher Institute (2011).

counseling.³ In addition, a 2016 study found that the rate of unintended pregnancies decreased 18 percent between 2008 and 2011, with larger declines (44 percent) occurring among women aged 15 to 17. The study's authors say those declines are likely due to increases in overall contraceptive use among women at risk of unintended pregnancy that occurred over the same period.⁴

The evidence clearly demonstrates that birth control is a public health success story. That's why Congress embraced contraception as a vital health care benefit for millions of women in the Affordable Care Act (ACA). The ACA requires health plans to cover recommended preventive services for women without cost-sharing. In response to these ACA provisions, HHS commissioned the non-partisan experts at the Institute of Medicine to identify preventive services necessary to protect women's health and well-being. Those experts recommended coverage of all contraceptive methods approved by the Food and Drug Administration.⁵ The recommendations were reviewed and recommended again by the Women's Preventive Services Initiative, and adopted by Health Resources & Services Administration (HRSA), just last year.⁶ Thanks to these protections in the ACA, over 62 million women now have coverage of birth control with no out-of-pocket cost, saving consumers over one billion dollars each year.⁷

The Administration's IFRs severely undermine congressional intent under the ACA. The ACA's fundamental goal is to expand access to affordable insurance that covers a core set of health benefits. Preventive services are singled out in numerous places throughout the law as especially important benefits that must be accessible and affordable. Nevertheless, the IFRs create broad exemptions that virtually any employer, insurance company, or institute of higher education can use to deny contraception coverage. Compliance with existing accommodations, which guarantee women access to affordable birth control when their employers deny contraception coverage, also becomes optional under the IFRs. And because the accommodation is now optional, many women will have no reasonable way to access birth control coverage.

The IFRs' impact on women and their families is not hypothetical. These rules threaten to reverse the progress for women's health, equality, and economic security made under the ACA. Women who lose access to contraception coverage will not only incur higher out-of-pocket costs, they will be forced to pay the *full cost* of their birth control. Without insurance coverage, birth control pills can cost as much as \$50 per month, with long-acting forms of contraception costing as much as \$1,000.⁸ These are not trivial costs for millions of women across the United States. The reality is, for many women, these expenses could put the birth control they need out of reach. Ironically, the IFRs claim that low-income women should be able to access affordable

³ Peipert, Jeffrey et al., Preventing Unintended Pregnancies by Providing No-Cost Contraception, *Obstetrics & Gynecology* (2012).

⁴ Finer, Lawrence et al., Declines in Unintended Pregnancy in the United States, 2008-2011, *New England Journal of Medicine* (2016).

⁵ Institute of Medicine, *Clinical Preventive Services for Women: Closing the Gaps* (2011).

⁶ Women's Preventive Services Guidelines. HRSA, available at: <https://www.hrsa.gov/womens-guidelines-2016/index.html>

⁷ New Data Estimate 62.4 Million Women Have Coverage of Birth Control Without Out-of-Pocket Costs. National Women's Law Center, available at: <https://nwc.org/resources/new-data-estimate-62-4-million-women-have-coverage-of-birth-control-without-out-of-pocket-costs/>; Becker, Nora. Women Saw Large Decrease In Out-of-Pocket Spending for Contraceptives After ACA Mandate Removed Cost Sharing. *Health Affairs* (2015).

⁸ Ruane, Kelsey et al., Know the Facts: IUDs and the Current Healthcare Law. National Women's Law Center. Available at: <https://nwc.org/blog/know-the-facts-iuds-and-the-current-healthcare-law/>.

contraception through other government programs, such as Title X and Medicaid, even though the Trump Administration and Congressional Republicans have worked tirelessly to undermine and dismantle these programs.

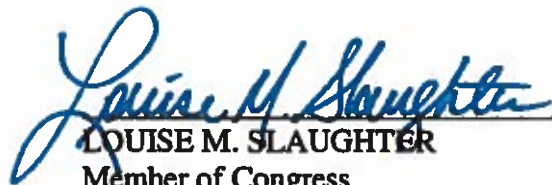
Employers and insurance companies should not have effective veto power over women's access to birth control coverage. We certainly agree that religious liberty is a fundamental value protected by the First Amendment. However, it does not give employers the right to discriminate and impose their beliefs on others, especially in a manner that causes harm to health, well-being, and financial security. Contraception should be treated like any other preventive health care benefit under the ACA, which remains the law of the land.

Rather than taking yet another harmful action to undermine health care access for women, we ask that the Administration rescind these misguided IFRs. Instead, the Administration should engage in an open and transparent process with all the key stakeholders prior to changing current law.

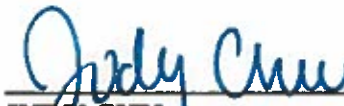
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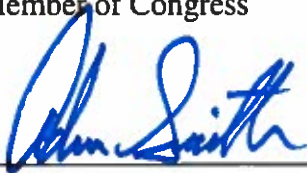
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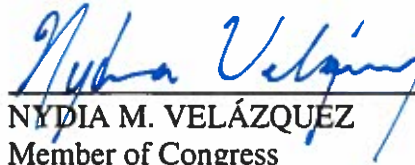
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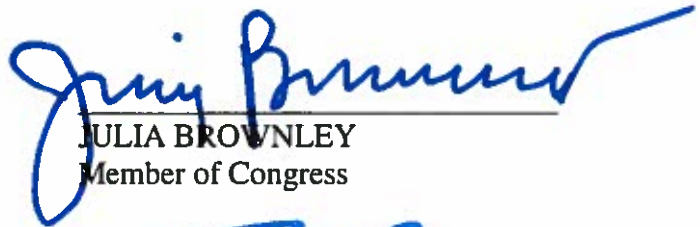
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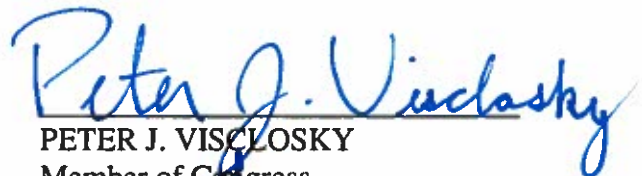
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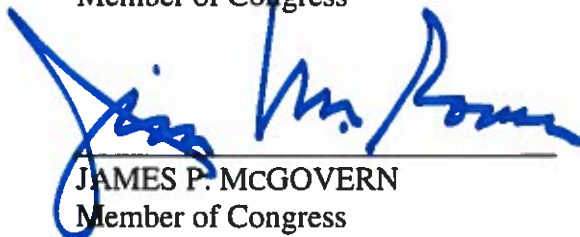
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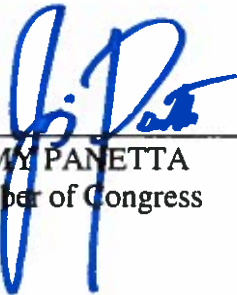
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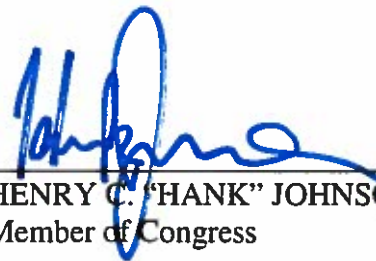
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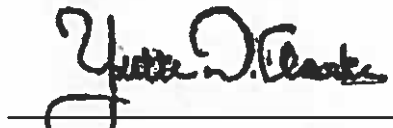

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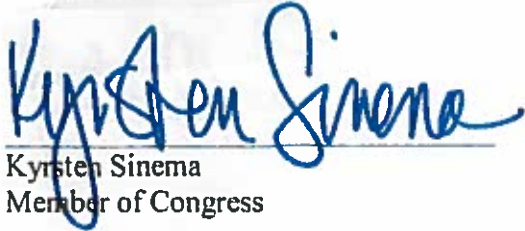

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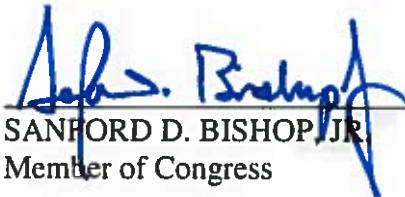
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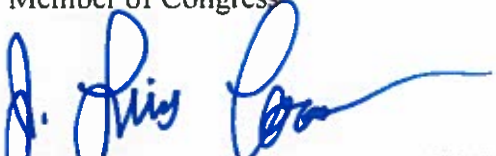
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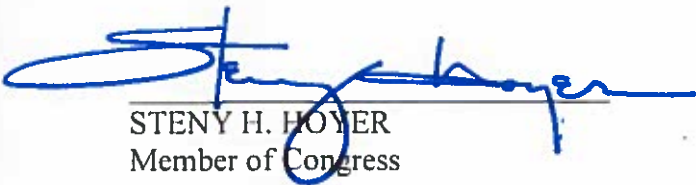
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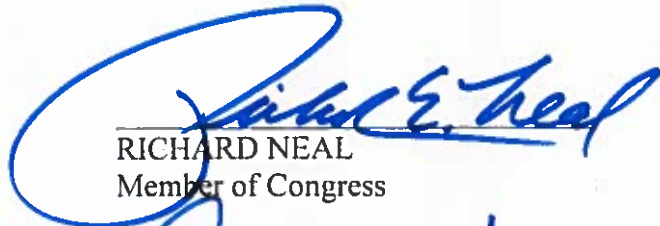
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