

Protecting Birth Control Coverage for Young People

One of the most contested provisions of the Affordable Care Act (ACA) has been coverage of contraception. Between the passage of the ACA and November 2013 opponents filed 94 federal lawsuits challenging the law's birth control coverage benefit. On Nov. 26, the Supreme Court agreed to hear the cases brought by Hobby Lobby and Conestoga Wood Specialties under the Religious Freedom Restoration Act (RFRA), which argue that certain parts of the health care reform law limited the company's religious exercise. And, just before key parts of the ACA were to go into effect on January 1, 2014, Supreme Court Justice Sotomayor issued a stay for several Catholic organizations not to cover birth control for their employees. For young Americans, the pending Supreme Court case and other challenges to birth control coverage are crucial. Young people are disproportionately affected by the high cost of contraception and stand to lose the most if access to basic preventive services is denied and if a 'religious-right-of-corporations' is created.

YOUNG WOMEN ARE DISPROPORTIONATELY IMPACTED BY THE HIGH COST OF CONTRACEPTION.

- Nearly half of women ages 18–34 with household incomes of less than \$75,000 report they need to delay childbearing because of economic hardship they've experienced in recent years.¹
- Before the ACA, women often paid high out-of-pocket healthcare costs. In many cases, oral contraceptives made up close to 29 percent of out-of-pocket health care costs for women with private insurance.¹
- Before the ACA, more than half of young women (55 percent) said they had experienced a time when they could not afford to use birth control consistently.²
- And extremely small numbers of women opted to use the most effective form of contraception — the intrauterine device, or IUD — because it could cost several hundred dollars out of pocket.³
- Since August 1, 2012, more than 22.5 million women have been covered by this benefit and are now able to get their birth control with no out-of-pocket costs.⁴

FOR YOUNG WOMEN, BIRTH CONTROL IS BASIC HEALTH CARE.

- Birth control is such a core part of women's health that 99 percent of sexually active women have used birth control at some point in their lives.⁵
- The decline in teen pregnancy rates in the United States is primarily due to young peoples' improved contraceptive use.⁶
- Overwhelming majorities support birth control coverage.
- More than 70 percent of Americans believe insurance companies should cover the full cost of birth control, just as they do for other preventive services.²
- More than eight in ten (86 percent) Millennials of color believe birth control is part of basic health care and should be covered by insurance, and half (53 percent) holds this view strongly.⁷
- Large majorities of young adults of color (84 percent) also believe that contraception needs to be available and affordable to help young people stay healthy.⁷

Hobby Lobby v. Sebelius and Conestoga Wood Specialties v. Sebelius: Some Basic Facts

The owners of Hobby Lobby, a privately owned for-profit corporation with more than 13,000 employees, and Conestoga Wood Specialties, a Pennsylvania for-profit manufacturer of specialty wood products with close to 1,000 employees, have argued that the companies should not be required to provide insurance coverage that includes birth control to their employees based solely on the owners' personal religious beliefs.

- In June, the Tenth Circuit Court of Appeals in Oklahoma concluded in *Hobby Lobby v. Sebelius* that, under the Religious Freedom Restoration Act (RFRA), the birth control coverage requirement substantially burdened the company's religious exercise.⁸
- In July, the Third Circuit Court of Appeals decided in *Conestoga Wood Specialties v. Sebelius* that a for-profit corporation couldn't exercise religious belief within the meaning of RFRA or the First Amendment. The court also concluded that because the requirement applies to the company, not the owners, it does not implicate the owners' religious exercise.⁹
- Three federal appeals courts around the country have struck down the birth control coverage rule, while two other appeals courts have upheld it. This led the Supreme Court to agree to hear the two cases involving for-profit corporations.¹⁰

Ultimately, the Court will decide whether corporations have the right to deny insurance coverage of contraception to their employees based on the religious beliefs of a corporation's owners.

- **EXPANSIVE RELIGIOUS EXEMPTIONS ALREADY EXIST FOR HOUSES OF WORSHIP.**

- In June, the Obama administration provided a set of wide-reaching rules exempting more than 350,000 religious institutions—specifically houses of worship—from the birth control benefit based on the First Amendment.¹¹

- **THE BIRTH CONTROL COVERAGE REQUIREMENT APPLIES TO THE COMPANY, NOT THE INDIVIDUALS WHO OWN IT.**

- Companies and corporations are separate legal entities from the people who own them. The requirement to cover birth control applies to the company, not the individuals who own it.¹¹

- In its *Conestoga* decision, the Third Circuit Court of Appeals concluded that a “for-profit, secular corporation” does not “exercise such an inherently ‘human’ right” of religious freedom.⁹

- **OWNERS OF CORPORATIONS ARE NOT REQUIRED TO USE BIRTH CONTROL.**

- Like any other preventative service, the rules state that a company's plan must include coverage for birth control. No one is forcing the owners of a company to take contraception or purchase contraception.

- **GRANTING CORPORATIONS THE RIGHT TO FREE EXERCISE OF RELIGION WOULD SET A RADICAL NEW PRECEDENT.**

- If the Supreme Court rules that private companies can refuse to provide insurance coverage for birth control, it could open up the possibility for any for-profit employer to deny coverage for any medical treatment otherwise entitled by federal law, based on the religious objections of the individuals who own that corporation.

- For example, a corporation could put in place policies denying coverage for immunizations, HIV screening, counseling for sexually transmitted infections, maternity care or, to any medical care, denying employees access to critical health services. Creating a ‘religious-right-of-corporations’ could be used to override young people's basic rights to health care.

Zenen Jaimes, Policy Advocate, Generation Progress
and Jeryl Hayes, Domestic Policy Analyst, Advocates for Youth

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