

# United States Senate

WASHINGTON, DC 20510

May 5, 2015

The Honorable Sylvia Mathews Burwell  
Secretary  
Department of Health and Human Services  
200 Independence Ave SW  
Washington, D.C. 20201

Dear Secretary Burwell:

In the 21<sup>st</sup> century, women should have access to affordable, comprehensive health care services, like birth control, that empower them to make their own health care decisions and provide economic security for their families. By helping women get contraceptive coverage and other essential health benefits without cost-sharing, the Affordable Care Act (ACA) took a critical step toward this goal, and nearly 50 million women are benefiting today. Unfortunately, we write with serious concerns that some insurers are failing to uphold the standards set in the Affordable Care Act and, as a result, are leaving women without the health care services they are entitled to under the law.

From 2012 to 2013, as a result of progress made in the ACA, the number of women who filled their prescriptions for oral contraceptives without a co-pay nearly quadrupled from 1.3 million to 5.1 million, and in 2013 alone, women saved more than \$483 million in out-of-pocket costs for birth control. We appreciate the Department's work to implement this provision.

Recently, however, there have been ongoing reports of health insurance carriers and pharmacies failing to provide these benefits or provide accurate information about their availability, in clear violation of law. Two reports by the National Women's Law Center based on national surveys, the *State of Birth Control Coverage*, and *State of Women's Coverage*, document such failures, and the Kaiser Family Foundation's "Coverage of Contraceptive Services" report shows a general lack of consumer awareness of the no-cost contraception benefit and non-compliance.

The Northwest Health Law Advocates and NARAL Pro-Choice Washington also recently released a report, *Contraception Coverage in Washington's State Qualified Health Plans*, which similarly showed health plans on Washington Health Benefit Exchange are out of compliance with the law. The report found that carriers—specifically customer service representatives—did not seem aware of the requirement to provide birth control at no out-of-pocket cost to consumers and were providing consumers with incorrect information. The report also found that some insurance carriers' formularies categorized certain forms of contraception like IUDs, which have been shown to be 99.9% effective in reducing unintended pregnancies, on higher priced drug tiers or excluded them entirely.

These reports document a troubling nationwide trend. Research shows that costs can significantly restrict women's ability to get the right care. In fact, almost one third of women report they would change their form of contraception if cost were not a factor. This is why the ACA provided for access to all FDA-approved forms of contraception, and why it is critical that we ensure women get the full range of health care services that insurers are now required to cover.

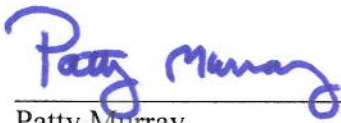
The Department of Health and Human Services should be closely monitoring and ensuring compliance with the law, and working with all stakeholders to reach that end.

Specifically, we request that you:

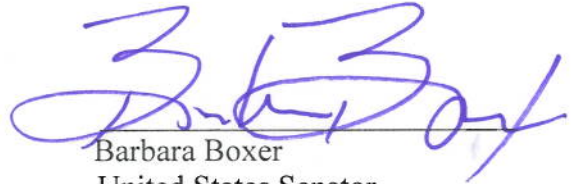
- provide greater clarity on the ACA requirement to cover all FDA-approved forms of contraception for carriers and take appropriate enforcement actions;
- increase consumer education and awareness of the benefits of the ACA, including contraception; and
- proactively encourage states to properly enforce compliance, and ensure that local stakeholders and states develop plans of action for compliance.

We applaud the steps that the Department has already taken to provide clarity regarding oral contraceptives, but clearly more must be done to ensure that women are receiving the full range of contraceptive benefits guaranteed by law. We ask that you provide us a written update on your actions to ensure they do. We look forward to continuing to work together to ensure all women have access to all methods of FDA-approved contraception.

Sincerely,



Patty Murray  
United States Senator



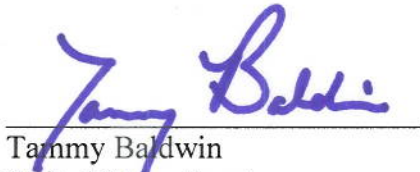
Barbara Boxer  
United States Senator



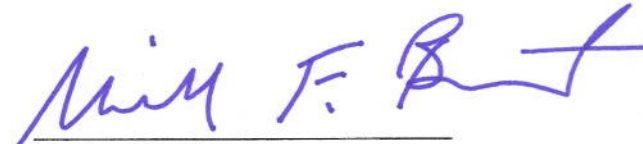
Harry Reid  
United States Senator



Charles E. Schumer  
United States Senator

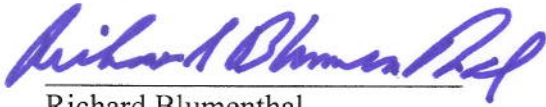


Tammy Baldwin  
United States Senator



Michael F. Bennet  
United States Senator





Richard Blumenthal  
United States Senator



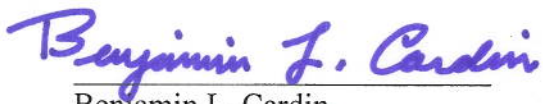
Cory A. Booker  
United States Senator



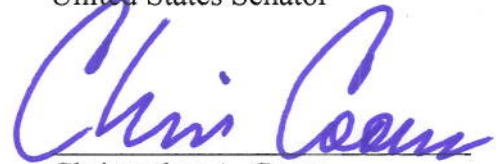
Sherrod Brown  
United States Senator



Maria Cantwell  
United States Senator



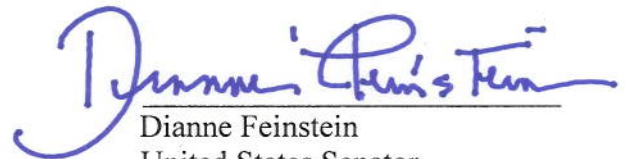
Benjamin L. Cardin  
United States Senator



Christopher A. Coons  
United States Senator



Richard J. Durbin  
United States Senator



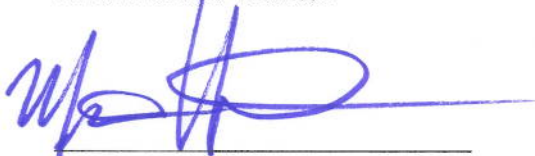
Dianne Feinstein  
United States Senator




Al Franken  
United States Senator



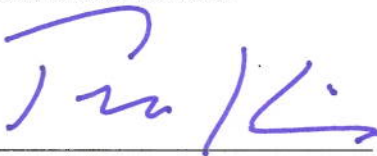
Kirsten Gillibrand  
United States Senator



Martin Heinrich  
United States Senator



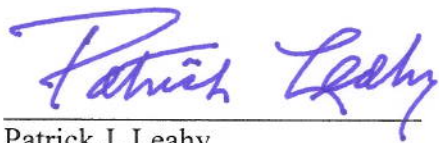
Mazie K. Hirono  
United States Senator



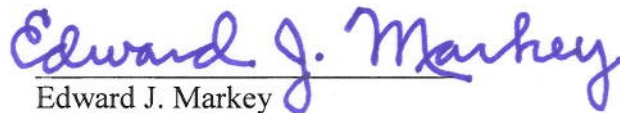
Tim Kaine  
United States Senator




Amy Klobuchar  
United States Senator



Patrick J. Leahy  
United States Senator



Edward J. Markey  
United States Senator



Claire McCaskill  
United States Senator



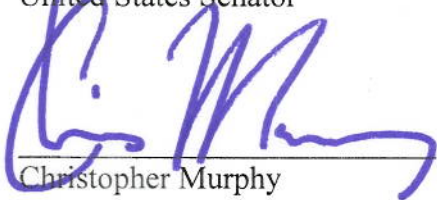
Robert Menendez  
United States Senator



Jeffrey A. Merkley  
United States Senator



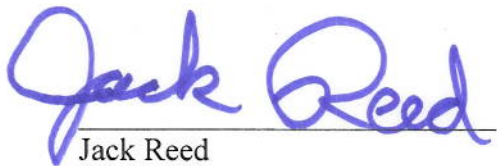
Barbara A. Mikulski  
United States Senator



Christopher Murphy  
United States Senator



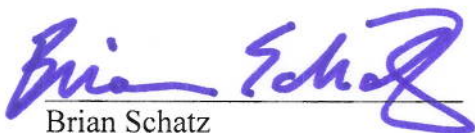
Gary Peters  
United States Senator



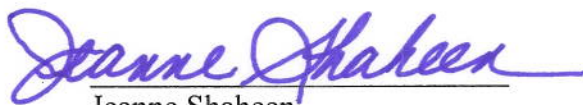
Jack Reed  
United States Senator



Bernard Sanders  
United States Senator



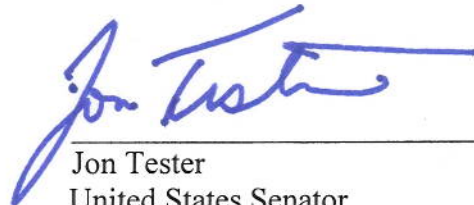
Brian Schatz  
United States Senator



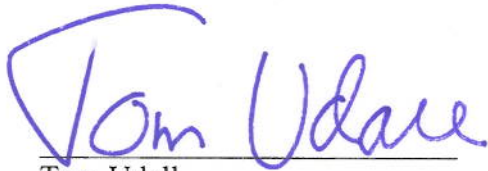
Jeanne Shaheen  
United States Senator



Debbie Stabenow  
United States Senator



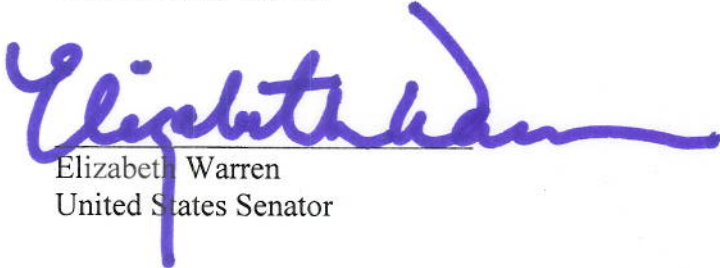
Jon Tester  
United States Senator



Tom Udall  
United States Senator



Mark Warner  
United States Senator



Elizabeth Warren  
United States Senator



Sheldon Whitehouse  
United States Senator



Ron Wyden  
United States Senator

cc: Department of Labor, Secretary Thomas E. Perez  
Department of Treasury, Secretary Jacob J. Lew  
Centers for Medicare and Medicaid Services, Administrator Andrew Slavitt