



December 10, 2024

The Honorable Danny Werfel
Commissioner
Internal Revenue Service
U.S. Department of the Treasury
1500 Pennsylvania Ave NW
Washington, DC 20220

The Honorable Lisa M. Gomez
Assistant Secretary
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Ave NW
Washington, DC 20210

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244

Re: CMS-9887-P: Enhancing Coverage of Preventive Services Under the Affordable Care Act

Dear Commissioner Werfel, Assistant Secretary Gomez and Administrator Brooks-LaSure:

As a leading representative and advocate on behalf of America's 34 million small businesses, Small Business Majority writes to provide feedback on the proposed rule issued by the U.S. Department of the Treasury, U.S. Department of Labor, and U.S. Department of Health and Human Services (the Departments) to expand access to over the counter (OTC) contraceptive products without cost sharing or prescription requirements. Small Business Majority applauds the Departments for their proposal which will expand access to affordable contraceptive products for millions of women small business owners and entrepreneurs nationwide.

Small Business Majority is a national small business organization that empowers America's diverse entrepreneurs to build a thriving and equitable economy. From our nine offices across the country, we engage our network of more than 85,000 small businesses and 1,500 business and community organizations to deliver resources to entrepreneurs and advocate for public policy solutions that promote inclusive small business growth. Our work is bolstered by extensive research and deep connections with the small business community that enable us to educate stakeholders about key issues impacting America's entrepreneurs, with a special focus on the smallest businesses and those facing systemic inequities. More than two-thirds of our network is represented by women entrepreneurs.

These comments reflect considerations that we urge the Departments to take into account in the final rule. We look forward to working with you to ensure women entrepreneurs have reliable and affordable access to contraceptives which is essential to their economic security.

Access to affordable reproductive health services, including contraceptives, for women entrepreneurs is critical to fostering a thriving economy

While women own nearly 40% of the nation's small businesses and represent the fastest growing demographic of entrepreneurs, they face increasing threats to their economic wellbeing due to mounting

attacks on their reproductive freedoms and access to contraceptive products.¹ To ensure that women entrepreneurs can continue to be the innovators of a diverse and equitable small business economy, it is critical that they have robust healthcare coverage which limits their out-of-pocket costs for contraceptive products and provides them with increased financial certainty and flexibility.

In a recent Small Business Majority survey of more than 500 women small business owners nationwide, an overwhelming majority (92%) of respondents believe it is important for women to have the freedom to decide if and when to have children.² Women entrepreneurs see a clear link between reproductive health access and economic freedom, and access to affordable contraceptives, including birth control, plays a critical role in the ability to plan one's future. In fact, our research found that 77% of women small business owners view birth control as important to obtaining financial security, with 93% noting that healthcare overall was the most important benefit for obtaining financial security. Furthermore, 76% agree that all women should have access to reproductive healthcare including abortion care and birth control, while 71% say that it's important for their employees to have access to abortion care and birth control.

However, following the June 2022 Supreme Court ruling overturning *Roe v. Wade*, 78% of women entrepreneurs surveyed expressed concerns over state efforts to restrict access to abortion and contraceptives. These efforts to restrict access to contraceptives and abortion have undoubtedly magnified the financial burden of the cost of contraceptives for millions of women entrepreneurs nationwide who oftentimes pay out-of-pocket for these critical services. Additionally, prescription requirements for contraceptives can come to impact women entrepreneurs' ability to effectively operate their business. When seeking out a prescription, women may have to take time away from their business to make unnecessary visits to the doctor and childcare arrangements, if necessary. As outlined in the proposed rule, these burdens also disproportionately impact low-income individuals who incur the costs of transportation, childcare, and time away from their job or business just to seek out a prescription for contraceptive products.

The Departments' proposed rule to expand health insurance coverage for OTC contraceptives will improve the financial security of women entrepreneurs

Small Business Majority stands in full support of the Departments' proposed rule to expand on the Affordable Care Act's (ACA) existing provisions by requiring private health insurance issuers and group health plans to cover OTC contraceptives without cost sharing or prescription requirements.

The ACA's birth control benefit, which guarantees women insurance coverage of all methods of birth control without additional out-of-pocket cost, has eliminated out-of-pocket costs for contraceptives for over 60 million women nationwide. Prior to enactment of the ACA and the birth control benefit, the cost of birth control made up an estimated 30-44% of women's total out-of-pocket health care costs.³ The year following the ACA's enactment, women saved nearly \$500 million on birth control pills.⁴

The proven success of the ACA's current coverage options for birth control indicates the importance of expanding the requirement for health insurance companies to cover all recommended U.S. Food and Drug Administration (FDA) approved OTC contraceptive products at no cost and without a prescription requirement. While eliminating cost-sharing will undoubtedly lead to greater economic wellbeing for

¹ "Facts About Small Business: Women Ownership Statistics" Small Business Administration Office of Advocacy. March 21, 2023. <https://advocacy.sba.gov/2023/03/21/facts-about-small-business-women-ownership-statistics/>

² "Opinion Poll: Women entrepreneurs see access to reproductive health as essential to their economic security" Small Business Majority. June 14, 2023. <https://smallbusinessmajority.org/our-research/women-entrepreneurs-say-reproductive-health-essential-to-economic-security>

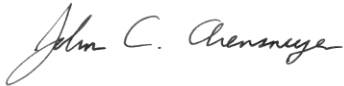
³ "The Affordable Care Act's Birth Control Benefit: Too Important to Lose" National Women's Law Center. June 2018. <https://nwl.org/resource/the-affordable-care-acts-birth-control-benefit-too-important-to-lose/>

⁴ "The Economic Benefits of Birth Control and Access to Family Planning" Joint Economic Committee. February 2020. https://www.jec.senate.gov/public/_cache/files/bb400414-8dee-4e39-abd3-c246ofd30e7d/the-economic-benefits-of-birth-control-and-access-to-family-planning.pdf

women entrepreneurs, the elimination of the prescription requirement will also lift many of the burdens, both financial and time-commitment related, associated with accessing contraceptive products.

Thank you for the opportunity to provide feedback on the proposed rule, which is an important step in expanding access to affordable reproductive healthcare products for millions of women entrepreneurs. Should you have any questions or would like to discuss our comments further, please contact our Government Affairs Director, Alexis D'Amato at adamato@smallbusinessmajority.org or (202) 967-0995.

Sincerely,

A handwritten signature in cursive script that reads "John C. Arensmeyer".

John Arensmeyer
Founder & CEO
Small Business Majority