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New York ∩ Consumers Union ∩ Empire Justice Center
Make the Road New York ∩ Medicare Rights Center ∩ Metro New York Health Care for All Campaign
New Yorkers for Accessible Health Coverage ∩ New York Immigration Coalition ∩ Project CHARGE
Public Policy and Education Fund of New York/Citizen Action of New York
Raising Women's Voices-New York ∩ Schuyler Center for Analysis and Advocacy ∩ Small Business Majority
Young Invincibles

September 20, 2018

Ms. Katherine Ceroalo
New York State Department of Health
Bureau of Program Counsel, Reg. Affairs Unit, Rm 2438
Empire State Plaza Tower Building
Albany, NY 12237
Comments submitted electronically to regsqa@health.state.ny.us

Re: Addition of section 505.3(d) and (e) to Title 18 NYCRR

Dear Ms. Ceroalo,

Health Care for All New York (HCFANY) is pleased to submit comments in support of the proposed rule regarding prescription contraceptive drugs in the Medicaid program.

HCFANY is a statewide coalition of over 170 organizations dedicated to achieving quality, affordable health coverage for all New Yorkers. We strive to bring consumer voices to state and federal policy conversations, ensuring that the concerns of real New Yorkers from across the state are heard and reflected in policy decisions. As active influencers of health reform in New York State, and with member organizations ranging from women's health care advocates to organizations that unite faith and labor communities to ensure affordable health care for New Yorkers, we are well positioned to submit comments on the proposed rule.

Fundamental to equality and economic empowerment is the ability to decide whether or when to have children. Expanded access to contraception is a critical tool for advancing educational and economic opportunities and improved maternal and infant health outcomes. When we enact policies that remove barriers to seamless and affordable contraception, we see physically and economically stronger individuals, families and communities.

The New York State Medicaid program has a demonstrated commitment to improving access to family planning services for low-income individuals. Our state Medicaid policies ensure expanded access to

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family planning coverage for individuals up to 223% of the Federal Poverty Level (FPL), enable enrollees to obtain emergency contraception over-the-counter (OTC) without a fiscal order, and require the coverage of the full range of Food and Drug Administration approved contraceptive methods – all of which play a critical role in addressing known barriers to reproductive health care. However, obstacles remain. Nearly 55% of all pregnancies in New York are unintended and more than 51% of births are paid for by Medicaid.¹² Our maternal mortality rate – 30th in the country – is unacceptably and disastrously high, disproportionately impacting the lives of women of color.³ These statistics speak to coverage and access gaps that remain and exacerbate existing and pervasive racial and economic disparities across the state. This proposed rule, which will improve seamless access to contraception for Medicaid enrollees, takes us one step closer to achieving a vision where every New Yorker has the power to determine their reproductive future and chart their own destiny.

HCFANY fully supports the proposed regulations, which will appropriately align Medicaid’s policies for the dispensing of contraceptive drugs with the regulations that guide this dispensing in commercial insurance. This regulatory action will ensure that: prescriptions for contraceptive drugs provided to Medicaid enrollees are valid for 12 months, as they are for commercially insured individuals, and that enrollees can receive a 12-month supply of contraception at one time, which aligns with current and proposed New York State insurance regulations.

At the core, this regulatory action reflects sound public health policy. The range of health and socioeconomic benefits of contraception are well documented, and underscore why the Centers for Disease Control and Prevention named family planning, including access to modern contraception, one of the 10 great public health achievements of the 20th century.⁴ It is estimated that the average woman will spend approximately three decades of her life attempting to avoid an unintended pregnancy.⁵ When individuals are able to choose the method that works best for them, they are more likely to use it consistently and correctly, which will significantly reduce their risk of an unintended pregnancy.⁶ Research has demonstrated that dispensing a one-year supply of contraceptives, as opposed to a three- or one-month supply, is associated with a 30 percent reduction in the likelihood of an unplanned pregnancy, as well as cost savings to private insurers and the state.⁷ It is important to note that purely enabling the dispensing of 12-month supply does not prevent providers from prescribing smaller

¹ Guttmacher Institute. State Facts About Unintended Pregnancy: New York. Available at: <https://www.guttmacher.org/fact-sheet/state-facts-about-unintended-pregnancy-new-york>

² Vital Statistics Live Births by Primary Financial Coverage and Resident County: Beginning 2008 | Health Data NY. (n.d.). Retrieved from <https://health.data.ny.gov/Health/Vital-Statistics-Live-Births-by-Primary-Financial-/ch6v-izr4>

³ Maternal Mortality in New York in 2018. (2018). Retrieved August 23, 2018, from https://www.americashealthrankings.org/explore/health-of-women-and-children/measure/maternal_mortality/state/NY.

⁴ Centers for Disease Control and Prevention. Achievements in Public Health, 1900-1999: Family Planning. Available at: <https://www.cdc.gov/mmwr/preview/mmwrhtml/mm4847a1.htm>

⁵ Contraceptive Use in the United States. (2018, July 26). Retrieved from <https://www.guttmacher.org/fact-sheet/contraceptive-use-united-states#4>

⁶ Sonfield A, Hasstedt K and Gold RB, *Moving Forward: Family Planning in the Era of Health Reform*, New York: Guttmacher Institute, 2014, <https://www.guttmacher.org/report/moving-forward-family-planning-era-health-reform>.

⁷ Shulman, L. (2011). Number of Oral Contraceptive Pill Packages Dispensed and Subsequent Unintended Pregnancies. *Yearbook of Obstetrics, Gynecology and Women’s Health*, 2011, 296-297. doi:10.1016/j.yobg.2011.05.078



dispensed amounts – if there is a clinical reason or patient preference to do so. It simply aligns Medicaid coverage policy with evidence-based research that underscores the public health value of dispensing a 12-month supply of contraception at one time.⁸

The health and economic benefits of increased access to contraception extend beyond individuals and families. It is estimated that in averting unintended pregnancies and other negative reproductive health outcomes, publicly funded family planning services provided by safety-net providers saved the federal and state government \$829.9 million in 2010 alone.⁹ In short, policies that support seamless and affordable access to the broad range of contraceptive methods will reduce unintended pregnancies and improve the health and economic wellbeing of women, families and communities.

Of greater importance, these regulations are a step towards health equity – advancing us towards an imperative goal of ensuring all New Yorkers have access to comprehensive health care, including sexual and reproductive health care. Racism and discriminatory public policies have created systemic and economic barriers that make Black and Latinx individuals more likely to be low-income and thus eligible for Medicaid coverage. Those same systemic and economic barriers have negatively impacted access to health care, resulting in pervasive health disparities. In New York, Black and Hispanic women make up 68% of women living with HIV/AIDS.¹⁰ Black women in New York City are 12 times more likely to die from pregnancy or childbirth-related causes than white women.¹¹ As coalition committed to ensuring that all New Yorkers have access to the health care they need, including comprehensive reproductive health care, we know that policies that promote health equity and improve access to care within Medicaid are necessary if we are to close the disturbing gap in health outcomes for women of color.

Further, women with Medicaid coverage should be afforded the same access to contraception as women with commercial insurance. Anything less is discriminatory and perpetuates existing systemic and economic barriers erected from decades of racism and discrimination. We commend the Department for taking these regulatory actions to address these policy inequities.

Conclusion

We value the opportunity to comment on the proposed regulations. In short, we fully support the proposed rulemaking in its entirety, and recommend swift adoption. Nearly one-quarter of women in New York receive their health care coverage through Medicaid.¹² These regulatory changes have the potential to make meaningful differences in the lives of many. Contraception is a fundamental

⁸ United States, Centers for Disease Control and Prevention. (2014). Providing Quality Family Planning Services. Retrieved August 29, 2018, from <https://www.cdc.gov/mmwr/pdf/rr/rr6304.pdf>

⁹ State Facts About Unintended Pregnancy: New York. (2017, September 07). Retrieved from <https://www.guttmacher.org/factsheet/state-facts-about-unintended-pregnancy-new-york#8>

¹⁰ United States, New York State Department of Health, AIDS Institute. (2016). New York State HIV Epidemiological Profile September 2016. Albany, New York.

¹¹ Martin, N., & Montagne, R. (n.d.). Nothing Protects Black Women from Dying in Pregnancy and Childbirth. Retrieved from <https://www.propublica.org/article/nothing-protects-black-women-from-dying-in-pregnancy-and-childbirth>

¹² Health Insurance Coverage of Women 19-64. (2017, September 19). Retrieved from <https://www.kff.org/other/state-indicator/nonelderly-adult-women/>



component of women’s health care and is nearly universally used by women in their lifetime. By breaking down existing barriers to preventative reproductive health care, we chip away at the structures of inequity and take steps towards improving the health and wellbeing of all New Yorkers.