

Biden Signs Executive Order Expanding Access to Birth Control

June 23, 2023 **by Dan McCue**



President Joe Biden speaks in the East Room of the White House on Friday, June 23, 2023. (Photo by Dan McCue)

WASHINGTON — President Joe Biden on Friday signed an executive order aimed at shoring up and expanding access to contraception in the face of the continued curtailment of abortion rights in several states.

The White House announced the president's intentions one day ahead of the one-year anniversary of the Supreme Court's ruling in *Dobbs v. Jackson Women's Health Organization*, its controversial decision to overturn *Roe v. Wade* and with it, the idea that a woman had a constitutional right to end a pregnancy.

In a concurring opinion, Justice Clarence Thomas suggested the high court revisit a number of similar cases, including those that

currently guarantee some right of access to contraception.

In a message that accompanied his signing of the executive order, Biden said access to contraception “is essential to ensuring that all people have control over personal decisions about their own health, lives and families.”

“High-quality contraception improves health outcomes, advances economic stability and promotes women’s overall well-being. Contraception access is linked to improved maternal and child health, expanded educational and professional opportunities and higher lifetime earnings,” the president said.

Biden noted that through new requirements for private health coverage and expanded access to Medicaid, the Affordable Care Act extended access to affordable contraception to millions of women, “helping them save billions of dollars on birth control.”

Despite this, he said, access to high-quality contraception continues to vary based on income, location, health insurance coverage and the availability of health care providers.

“Millions of people continue to face barriers to obtaining the contraception they need even as access has become more critical in the wake of the Supreme Court’s decision,” he said.

“Given that the Supreme Court overruled *Roe*, which rested on the fundamental right to privacy in matters of health, bodily autonomy and family, it has never been more important to protect and expand access to family planning services,” Biden added.

The president’s executive order directs the secretaries of the Treasury, Labor Department, and the Department of Health and Human Services to ensure private health insurers cover all

contraceptives approved by the Food and Drug Administration — a requirement under the Affordable Care Act.

That act requires most insurance plans to cover at least one type of contraceptive per category without a copay. There are 18 contraceptive methods approved by the FDA. The executive order signed Friday also directs those departments to consider new ways to broaden access to affordable over-the-counter birth control medications, such as Plan B emergency contraception.

It also directs Health and Human Services Secretary Xavier Becerra to consider new actions that expand access to affordable family planning services and supplies across the Medicaid program — such as sharing best practices for state Medicaid programs on providing high-quality family planning services and supplies, including through Medicaid managed care.

In addition, it orders HHS to consider new actions to strengthen the coverage of contraception through Medicare Advantage and Medicare Part D plans.

Moving on to other departments, it directs the departments of Defense and Veterans Affairs as well as the Office of Personnel Management to consider new actions to ensure robust coverage of contraception for service members, veterans and federal employees, and ensure that they and their families understand how to access these benefits.

And it directs the Labor Department to identify and share best practices for employers and insurers in making affordable, high-quality contraception available to employees, while asking the Education Department to convene institutions of higher education to share best practices and ways to make sure that students understand their options for accessing contraception.

Finally, it mandates a coordinated, “whole government” approach be taken to document the gaps and disparities in contraception access as well as the benefits of comprehensive coverage.

Friday’s executive order is actually the second Biden has signed on this front since the release of Thomas’ concurrence in *Dobbs*.

The first, signed in August 2022, and dubbed the Securing Access to Reproductive and Other Healthcare Services Act, directed the administration to take action to protect access to reproductive health care services, including contraception and abortion.

In addition to coinciding with the Supreme Court’s *Dobbs* decision, Biden’s signing of the executive order roughly corresponds to the introduction of legislation by several Capitol Hill Democrats aimed at codifying the right to contraception.

The bicameral bill was introduced last week by Sens. Edward Markey, D-Mass., Mazie Hirono, D-Hawaii, and Tammy Duckworth, D-Ill., and Rep. Kathy Manning, D-N.C.

The Right to Contraception Act is legislation that would codify and strengthen the right to contraception, which the Supreme Court first recognized more than half a century ago in its *Griswold v. Connecticut* decision.

“Enshrining the right to contraception into federal law would reverse steps already taken by Republicans in states across the country to restrict access to contraceptives and ensure that any future attempt by the far-right majority on the Supreme Court to overturn *Griswold* would not endanger access to this essential health care,” a joint press release from the lawmakers said.

“The right to contraception is the right to essential health care, yet extremist judges and radical Republicans continue to

threaten access for millions of Americans,” said Markey in a written statement.

“We cannot stand by as extremists continue to undo decades of precedent and progress,” he said. “Extremist Republicans need to get out of the waiting room and start representing what the vast majority of Americans want: to let health care providers and patients make decisions about what is best for themselves.

“Contraception access shouldn’t be controversial, and Congress must use this moment to demonstrate clearly that we will act to protect people’s health,” Markey added.

“Dobbs has already had, and will continue to have, devastating implications for women’s health,” Biden said on Friday. “In states with laws that restrict access to abortion, health clinics that provide contraception and other essential health services have shuttered, eliminating critical points of care.

“Some state officials have adopted policies interfering with access to emergency contraception, including for vulnerable populations,” he continued. “Such policies further threaten women’s ability to make decisions about their own bodies, families and futures.

“These threats persist despite decades of Supreme Court precedent, beginning with *Griswold v. Connecticut* and *Eisenstadt v. Baird* affirming the right to contraception,” Biden said.

Among those applauding the president’s action on Friday was House Democratic Whip Katherine Clark, D-Mass., who said the president had taken “bold action” to expand access to birth control and defend reproductive health care.

“When the right-wing Supreme Court majority overturned *Roe v. Wade* one year ago, they also threatened the American people’s freedom to use contraception. Since then, extremist congressional Republicans have voted against protecting this basic right while threatening to impose a national abortion ban,” she said.

“Instead of working across the aisle to grow our economy and grow the middle class, Republicans are abusing their power to insert themselves between you, your doctor, your family and your faith. President Biden and Democrats are taking every action possible to stop this MAGA war on freedom,” Clark concluded.

More than a dozen states have implemented abortion restrictions since the *Dobbs* decision, with some laws criminalizing the procedure as early as six weeks into pregnancy.

According to the Centers for Disease Control and Prevention, contraception is widely used in the United States, with approximately 65% of women aged 15–49 using some form of birth control from 2017 to 2019.

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