

# Coverage of Over-the-Counter Oral Contraceptives: Children’s Health Insurance Program (CHIP)

Over-the-counter (OTC) availability of a Food and Drug Administration (FDA)-approved oral contraceptive could be an important option for addressing logistical obstacles to contraceptive access and consistent use, including for adolescents in families with low incomes. However, for an OTC oral contraceptive to meet its potential, federal programs, including the Children’s Health Insurance Program (CHIP), will need to take steps to ensure that it is fully covered by health insurance plans, and that all OTC contraceptives are covered without cost-sharing and without a prescription.

## Current Contraceptive Coverage Policy

Federal law gives states three options for running CHIP: (1) a Medicaid expansion CHIP (under which a state expands eligibility for Medicaid to additional low-income children, known as M-CHIP), (2) a separate CHIP (under which a state establishes a program that follows different rules from Medicaid on eligibility, benefits, and other matters, known as S-CHIP), or (3) a combination of the two approaches. [Currently](#), 38 states have a combination approach, 10 states and the District of Columbia have only an M-CHIP, and two states have only an S-CHIP.

M-CHIP follows the rules and procedures for Medicaid, including rules for coverage of contraceptive services and supplies. **Recommendations for improving coverage for OTC contraceptives under Medicaid have been provided to the Centers for Medicare and Medicaid Services (CMS) by members of the Medicaid Family Planning Working Group, and have been summarized in a separate paper by CAI.** Those recommendations would apply to M-CHIP as well, and they are not addressed further in this paper.

For S-CHIP, family planning services and OTC medications are both explicitly permitted services, according to [CMS regulations](#). States generally have more flexibility in [setting benefits and cost-sharing](#) than they do for Medicaid. Benefits may be modeled on or designed to be equivalent in value to several potential benchmark plans, including private-market health maintenance organizations (HMOs), federal employee plans, and state employee plans. Notably and unlike in Medicaid, family planning is not a required service category for S-CHIP and family planning services are not exempt from cost-sharing. [According to a 2021 report](#), only two states (North Dakota and Texas) exclude contraceptive coverage from S-CHIP.

## Recommendations for OTC Contraceptive Coverage

*Note: These steps assume that the Departments of Labor, HHS, and Treasury have issued FAQs to clarify that the ACA requires coverage of OTC contraception without cost-sharing and without a prescription, [as recommended by CAI](#).*

CMS should take steps to encourage and facilitate coverage of an FDA-approved OTC oral contraceptive under CHIP and to encourage and facilitate coverage of all OTC contraceptives without cost-sharing and without a prescription. Specifically, CMS should issue a State Health Official letter that:

1. Provides state agencies with **information about relevant changes in federal coverage requirements** affecting health plans that states may be using as a benchmark for coverage under S-CHIP.
  - a. Notably, all three benchmark options (the federal employee plan, state employee plan, and HMO plan benchmarks) are subject to the Affordable Care Act's contraceptive coverage requirement. Therefore, CMS should immediately alert state agencies when the Departments of Labor, Health and Human Services, and the Treasury issue updated guidance clarifying that plans must provide cost-sharing-free coverage for OTC contraceptives [even when purchased without a prescription](#).
2. Provides technical assistance to state agencies to help them **make coverage of OTC contraceptives as seamless for enrollees as possible**. In doing so, CMS should leverage its experience under Medicaid and CHIP with coverage of OTC emergency contraception, OTC overdose reversal medication (naloxone), and OTC COVID-19 tests.
  - a. One option for state agencies is to issue a standing order for an OTC oral contraceptive and other OTC contraceptives for all CHIP beneficiaries capable of pregnancy. That would effectively allow for purchase without an individual prescription in a pharmacy setting.
3. Directs states to **provide special notice to CHIP** beneficiaries and providers about any improvements the state makes to contraceptive coverage and about how to access coverage for OTC contraceptives without a prescription.