

# Coverage of Over-the-Counter Oral Contraceptives: Medicare

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 people with disabilities. However, for an OTC oral contraceptive to meet its potential, federal programs, including Medicare, 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

Unlike most other forms of health coverage in the United States, the Medicare program is not bound by the Affordable Care Act's contraceptive coverage benefit, which requires plans to cover the full range of contraceptive products and services, without patient out-of-pocket costs like copayments and deductibles. In short, Medicare Part D and Medicare Advantage are permitted to cover OTC contraceptive products, but Medicare Part A and B are not.

More specifically, Medicare Part A (inpatient coverage) and Part B (most outpatient coverage) [have been interpreted](#) to exclude coverage for contraceptive services, including [sterilization](#) performed for contraceptive purposes, because they [generally exclude items and services](#) that are “not reasonable and necessary for the diagnosis or treatment of an illness or injury or to improve the functioning of a malformed body member.”

However, Medicare Part D plans (the prescription drug benefit) are permitted to cover prescription drugs, such as prescription contraceptives, that would be excluded under that Part A and Part B standard. Similarly, Medicare Advantage (privately run Medicare plans) typically include a prescription drug benefit and may also offer benefits beyond what is covered under traditional Medicare. As noted by the [Kaiser Family Foundation](#), the “extent and level of coverage for contraceptives” varies by specific Part D and Medicare Advantage plan. If prescription contraceptives are covered, they would be subject to the plan's cost-sharing requirements; for [Part D plans](#), that typically includes an initial deductible and then 25% coinsurance up to a specific dollar threshold.

Medicare Part D generally excludes OTC drugs as a category, and plans cannot cover them under the drug benefit. However, [CMS rules](#) do allow Part D plans to cover OTC drugs as part of allowable administrative costs. If they choose to do so (for example, as a cheaper alternative to a prescription drug), the OTC drug must be “provided to the enrollee without any direct cost-sharing at the point of sale.”

## Recommendations for OTC Contraceptive Coverage

CMS should take steps to require or at minimum encourage and facilitate coverage of an FDA-approved OTC oral contraceptive under Medicare and to require or encourage and facilitate coverage of all OTC contraceptives without cost-sharing and without a prescription. Specifically, CMS should:

1. **Explore what authorities CMS may have to require Medicare Part D and Medicare Advantage plans to cover OTC contraception with no cost-sharing**, consistent with anticipated new tri-department guidance. Barring this authority, **encourage and facilitate coverage of OTC contraception**, including by providing Part D and Advantage plans with information about relevant changes in federal coverage requirements affecting other types of health plans, which Part D and Advantage plans might be using as a model for their coverage.
  - a. For example, CMS should immediately alert Part D and Advantage plans when the Departments of Labor, Health and Human Services, and the Treasury issue updated guidance clarifying that private health plans must provide cost-sharing-free coverage for OTC contraceptives [even when purchased without a prescription](#).
2. Provide technical assistance to Medicare Part D and Medicare Advantage plans to help them **make coverage of OTC contraceptives as seamless for enrollees as possible**. In doing so, CMS should leverage its experience under Medicaid with coverage of OTC emergency contraception, OTC overdose reversal medication (naloxone), and OTC COVID-19 tests.
3. Direct Medicare Part D and Medicare Advantage plans to provide special notice to beneficiaries and providers about any improvements the plan makes to contraceptive coverage and about how to access coverage for OTC contraceptives without a prescription.