

Free the Pill

States with OTC contraceptive coverage laws

As of: August 2, 2023

Overview of state OTC contraceptive coverage laws

In 2016, Free the Pill began working with state advocates in Maryland, the first state to enact an OTC contraceptive coverage law. Now, eight states have laws requiring OTC coverage.¹ To understand the OTC contraceptive coverage landscape in each state, two factors should be considered.

- **Coverage requirements by type of insurance plan**

State laws apply to certain types of insurance plans, including individually purchased plans, some employer plans, Medicaid, and state employee plans while other types of insurance plans, especially large employer plans and Medicare, are governed by federal rules.

- **Types of contraception covered**

State OTC coverage laws distinguish between two types of contraception: medications and devices. Currently the FDA has approved two medications, a progestin-only daily birth control pill (Opill) and levonorgestrel emergency contraception (Plan B and its generics), and two devices, internal and external condoms, for OTC use.² However, state laws are generally flexible enough to provide coverage to any future OTC products without the need for statutory updates.

State	Plan Type			Required Contraceptive Coverage	
	State-regulated private plan	Medicaid	State employee plan	All medications (incl. future OTC)	All devices (incl. future OTC)
California ³	X		X	X	X
Illinois ⁴	X	X ⁵		X	
Maryland	X	X ⁵	X	X	
New Jersey	X	X ⁵	X	X	
New Mexico	X			X	X
New York	X	X ⁵		X ⁶	X
Oregon	X	X		X	X
Washington	X	X ⁵		X	X

1. California: https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB523
Illinois: <https://www.ilga.gov/legislation/billstatus.asp?DocNum=5576&GAID=13&GA=99&DocTypeID=HB&LegID=95006&SessionID=88>
Maryland: <https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/hb1005?ys=2016RS&search=True>
New Jersey: https://pub.njleg.state.nj.us/Bills/2018/PL19/361_PDF
New Mexico: <https://www.nmlegis.gov/Legislation/Legislation?Chamber=H&LegType=B&LegNo=89&year=19>
New York: <https://www.nysenate.gov/legislation/bills/2019/s1507/amendment/c>
Oregon: <https://olis.oregonlegislature.gov/liz/2017R1/Downloads/MeasureDocument/HB3391/Enrolled>
Washington: <https://app.leg.wa.gov/billsummary?BillNumber=6219&Year=2017>
2. The FDA has also approved spermicide and sponges for OTC use as a medication and device respectively. State OTC coverage implementation has been primarily focused on levonorgestrel emergency contraception and condoms, as spermicides and sponges are not generally available in as many pharmacy or retail settings.
3. Not implemented yet, as effective date of law is January 1, 2024.
4. State law covers OTC contraceptive devices but excludes male (external) condoms. Since male condoms are the most common type of contraceptive device, the chart indicates that OTC devices are not covered.
5. Medicaid coverage provided under state regulation or policy, rather than a statutory requirement. Policies may need to be updated for Opill. Information about Medicaid coverage of OTC contraception may be found in a KFF survey: <https://www.kff.org/report-section/medicaid-coverage-of-family-planning-benefits-findings-from-a-2021-state-survey-report/>
6. State law may need to be updated for Opill to be covered. All other state laws are broad and extend to any future OTC contraceptives.