

**September 19, 2019**

**ATTORNEY GENERAL RAOUL URGES FEDERAL GOVERNMENT TO COMPLY WITH INJUNCTION THAT HALTED BIRTH CONTROL REFUSAL RULE**

**Chicago** — Attorney General Kwame Raoul, as part of a coalition of 15 attorneys general, urged the federal government to immediately comply with the court-ordered injunction in *California v. Azar*. The injunction secured by Illinois and 13 other states earlier this year halted the federal government’s attempt to strip access to cost-free birth control coverage under the Affordable Care Act (ACA).

In [the letter](#), Raoul and the coalition urge the federal government to update its website and inform the public about the injunction and its impact on their contraceptive coverage. Despite that injunction being in place, the Department of Health and Human Services and the Department of Labor websites state that employers can opt out of providing contraceptive coverage, in violation of the court orders. Further, another HHS webpage lists all of the preventive services mandated under the ACA, but does not include contraceptive coverage.

“By failing to comply with this injunction, the federal government is ignoring the court’s decision and providing the public with misleading and false information in relation to women’s health care choices,” Raoul said. “Employers do not have the right to stand between their female employees and the reproductive health care they need. I will continue to fight any attempt by the federal government to interfere with a woman’s control of her own body and access to critical health care services.”

Since the ACA’s Women’s Health Amendment was put into place in 2012, 62 million women have benefitted from this provision. On Oct. 6, 2017, the federal government issued rules that allowed virtually any employer to deny women cost-free birth control that was guaranteed by the Affordable Care Act. A coalition of attorneys general secured a nationwide injunction in December of 2017. Nearly a year later, the federal government issued final rules that were nearly identical to the interim rules. The coalition quickly challenged the rule and secured yet another injunction, protecting access to birth control for millions of women across the country.

Joining Raoul in sending the letter are the attorneys general of California, Connecticut, Delaware, the District of Columbia, Hawaii, Maryland, Minnesota, New York, North Carolina, Oregon, Rhode Island, Vermont, Virginia, and Washington.



State of California  
Office of the Attorney General

XAVIER BECERRA  
ATTORNEY GENERAL

**Attorneys General of California, Connecticut, Delaware, the District of Columbia,  
Hawaii, Illinois, Maryland, Minnesota, New York, North Carolina,  
Oregon, Rhode Island, Vermont, Virginia, and Washington**

September 18, 2019

**Via email to Justin Sandberg (Justin.Sandberg@usdoj.gov)**

Secretary Alex M. Azar II  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

Acting Secretary Patrick Pizzella  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, DC 20210

Secretary Steven T. Mnuchin  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

RE: Contraceptive Coverage Mandate  
Compliance with Court-Ordered Injunction

Dear Secretary Azar, Acting Secretary Pizzella, and Secretary Mnuchin:

We, the Attorneys General of California, Connecticut, Delaware, the District of Columbia, Hawaii, Illinois, Maryland, Minnesota, New York, North Carolina, Oregon, Rhode Island, Vermont, Virginia, and Washington write today to demand that the U.S. Department of Health and Human Services (HHS), the U.S. Department of Labor (DOL), and the U.S. Department of the Treasury (DOT) immediately comply with the court-ordered

Secretary Azar  
Acting Secretary Pizzella  
Secretary Mnuchin  
September 18, 2019  
Page 2

injunction in *California v. Azar*, No. 17-cv-05783-HSG, Dkt No. 234 (N.D. Cal. 2019). This court decision made clear that women and covered dependents are able to access their statutorily-protected birth control benefit under the Affordable Care Act (ACA). It has recently become evident that your federal agencies have not revised their websites or otherwise informed the public that complying with the contraceptive coverage mandate is required under this injunction. *See* attached appendix.

As you are aware, the ACA's Women's Health Amendment ensured women's access to preventive care by guaranteeing "no cost" coverage of all approved contraceptive methods and contraceptive counseling, empowering women to select the best method to meet their healthcare needs. Since 2012, over 62 million women have benefited from this provision, saving up to \$1.4 billion, with resulting societal benefits from greater female engagement in the workforce and economic self-sufficiency. The Women's Health Amendment ensures that women have full and equal healthcare coverage through their employer-sponsored plan.

On October 6, 2017, your agencies promulgated sweeping new rules upending women's entitled contraceptive coverage in two interim final rules, effective immediately, denying the public an opportunity to comment before these drastic changes went into effect. 82 Fed. Reg. 47,792 (Oct. 13, 2017); 82 Fed. Reg. 47,838 (Oct. 13, 2017). Several states successfully obtained an injunction, blocking enforcement of those interim rules.<sup>1</sup>

Then, on November 15, 2018, your agencies promulgated the final Religious and Moral Exemption Rules (Exemption Rules) that are nearly identical to the interim final rules. 83 Fed. Reg. at 57,536 (Nov. 15, 2018); 83 Fed. Reg. at 57,592 (Nov. 15, 2018). Once again, the States successfully obtained an injunction, blocking enforcement of these final Exemption Rules.<sup>2</sup>

Notwithstanding these court orders, HHS and DOL currently maintain several misleading websites that fail to inform the public that there are injunctions in place that enjoin implementation of the final Religious and Moral Exemption Rules. Rather, HHS's websites summarize the provisions of the Exemption Rules without specifying that those rules have been enjoined. *See, e.g.*, <https://www.hhs.gov/about/news/2018/11/07/fact-sheet-final-rules-on-religious-and-moral-exemptions-and-accommodation-for-coverage-of-certain-preventive-services-under-affordable-care-act.html>;

---

<sup>1</sup> *California v. Azar*, 281 F. Supp. 3d 806 (N.D. Cal. 2017); *Pennsylvania v. Trump*, 281 F. Supp. 3d 553 (E.D. Pa. 2017).

<sup>2</sup> *California v. Azar*, 351 F. Supp. 3d 1267 (N.D. Cal. 2019); *Pennsylvania v. Trump*, 351 F. Supp. 3d 791 (E.D. Pa. 2019).

Secretary Azar  
Acting Secretary Pizzella  
Secretary Mnuchin  
September 18, 2019  
Page 3

<https://www.hhs.gov/healthcare/about-the-ca/index.html>; <https://www.hhs.gov/sites/default/files/fact-sheet-religious-exemptions-and-accommodations-for-coverage.pdf>;  
<https://www.hrsa.gov/womensguidelines/index.html> (reflecting availability of broad exemptions). On another website, HHS lists all of the preventive services mandated under the ACA, but does not include contraceptive coverage—again omitting information about coverage that the current law requires. See <https://www.hhs.gov/healthcare/about-the-aca/preventive-care/index.html>. DOL also maintains several websites that likewise suggest that broad exemptions are available. See <https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/affordable-care-act/for-employers-and-advisers/coverage-of-preventive-services>; <https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/laws/affordable-care-act/for-employers-and-advisers/ebsa-form-700-revised.pdf>. Without correction, the statements on these websites may lead the public to incorrectly believe that employers can opt out of providing contraceptive coverage, in violation of the court’s orders.

We have significant concerns that your agencies are failing to honestly apprise the public of the legal status of the ACA’s contraceptive coverage mandate and the Religious and Moral Exemption Rules. To protect consumers, we believe the Departments’ websites should clearly state what the law plainly requires: that ACA-regulated entities must abide by the contraceptive coverage mandate.

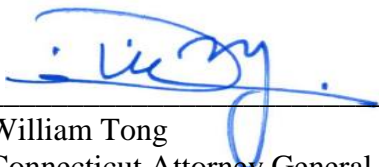
We urge you to remove the misleading and false information from these websites to fully and clearly reflect the legal obligations under the ACA.

Sincerely,



---

Xavier Becerra  
California Attorney General



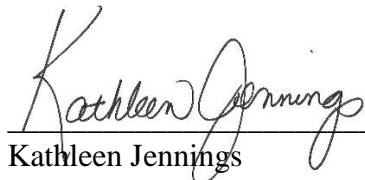
---

William Tong  
Connecticut Attorney General



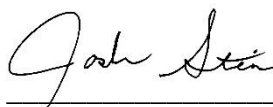
---

Letitia James  
New York Attorney General



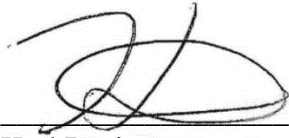
---

Kathleen Jennings  
Delaware Attorney General

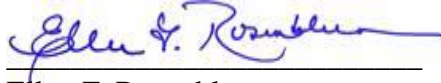


---

Joshua H. Stein  
North Carolina Attorney General



Karl Racine  
District of Columbia Attorney General



Ellen F. Rosenblum  
Oregon Attorney General



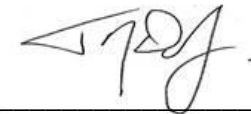
Clare E. Connors  
Hawaii Attorney General



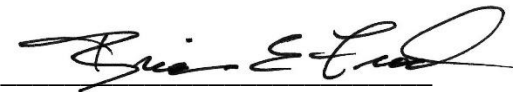
Peter F. Neronha  
Rhode Island Attorney General



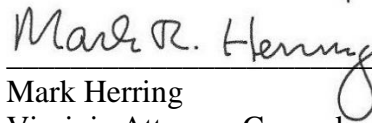
Kwame Raoul  
Illinois Attorney General



Thomas J. Donovan, Jr.  
Vermont Attorney General



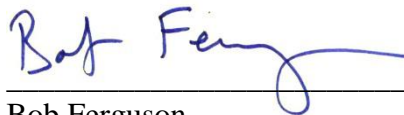
Brian E. Frosh  
Maryland Attorney General



Mark Herring  
Virginia Attorney General



Keith Ellison  
Minnesota Attorney General



Bob Ferguson  
Washington Attorney General