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Reproductive & Maternal Health

You have the right to a safe and confidential abortion until your 24th week of pregnancy or at any point medically necessary to protect your life or health. If you receive Medicaid or have health insurance, your provider must cover critical family planning services, including contraception and abortion services at no additional cost.



The decision whether or not to bear a child is central to a woman's life, to her wellbeing and dignity. It is a decision she must make for herself."

— Justice Ruth Bader Ginsburg,
Associate Justice of the Supreme Court
of the United States

How Does Reproductive and Maternal Health Relate to My Economic Security?

Your reproductive freedom—your ability to determine if and when to have a child—and your right to affordable reproductive and maternal health services—contraception, abortion, and medical care during and after pregnancy—can be critical to your economic security and wellbeing.

Raising children can be expensive, and without adequate support women have traditionally suffered additional financial penalties—having to go on unpaid leave before and after childbirth, having to return to work while recovering from childbirth, and getting fired or being forced to leave a job. In fact, women who are denied access to reproductive health

services are more likely to fall into poverty, face unemployment, or be forced to rely on public assistance.¹⁵⁶ Even when reproductive health services are available, the high cost can serve as a major barrier, forcing women to choose between contraception and other basic necessities.¹⁵⁷

All women should have the freedom and ability to make their own decisions about their reproduction and to pursue their educational and career goals on their own time and on an equal footing with men. In New York State, there are laws and requirements in place to help you do so.

What are My Legal Rights?

In this Toolkit, the terms “reproductive rights” and “maternal health” refer mainly to contraception, including birth control; abortion services; preventive care; healthcare during and after pregnancy; and healthcare coverage for these various services. When making decisions about your future, it is important that you are aware of the rights and/or healthcare coverage you may or may not have with respect to contraception, abortion, and reproductive and maternal healthcare services.

Birth Control

It is your choice whether or not you choose to use birth control. If you receive health insurance from your employer in New York State, your employer and insurance provider must cover all F.D.A. approved forms of birth control at no cost to you.¹⁵⁸ However, where multiple version of a contraceptive method are available, your insurer is only required to cover one version unless the approved version is not available or is medically inadvisable for you.¹⁵⁹ If requested, your insurer must also cover the entire prescribed supply at your first purchase, for up to 12 months of the prescription, which means that if you were prescribed a 12-month supply, you should be able to get your entire 12-month supply up front.¹⁶⁰ Other forms of birth control that you may be able to get at no cost include emergency contraception (e.g., “Plan B”) as well as in-network voluntary sterilization. Lastly, if you have not paid for the form of birth control you are using, then all follow-up services and management of side effects, counseling, and device removal should also be at no additional cost.¹⁶¹

Religious employers can also opt-out of providing coverage for birth control in their health insurance plan. In this case, your employer must provide you with written notice regarding their refusal, including information about how you can purchase

coverage directly from your health insurance provider.¹⁶²

Abortion

In New York State, you have the right to a safe and confidential abortion before your 24th week of pregnancy or at any point medically necessary to protect your life or health or at any point if it is medically determined that the fetus would not survive birth.¹⁶³

While the full legal ramifications of the U.S. Supreme Court decision eliminating the constitutional right to an abortion and the resulting legislation in various states are still unknown, New York has taken steps to protect abortion access by passing laws that:

- Prohibit law enforcement in New York from cooperating with an out-of-state investigation into an abortion legally procured under New York law.¹⁶⁴
- Allow you to bring a lawsuit for “unlawful interference with protected rights” against someone who sues you in another state for obtaining a legal abortion in New York.¹⁶⁵
- Protect providers who perform abortion on patients from outside of New York.¹⁶⁶

For the most up to date information on abortion law in New York State, visit: <https://www.ny.gov/programs/abortion-new-york-state-know-your-rights>.

If you receive health insurance through your employer in New York State, you should be able to get an abortion at no additional cost. Health insurance providers that cover general medical services are required to cover in-network medically necessary abortions, and there should be no copayment,

coinsurance, or annual deductible.¹⁶⁷ In addition, your insurance provider is required to provide coverage for non-surgical abortions that are not medically necessary.¹⁶⁸

Your employer is prohibited from discriminating against you for choosing to have or not to have an abortion or contemplating having an abortion.¹⁶⁹ The law prohibits an employer from:¹⁷⁰

- Accessing an employee's personal information regarding the employee's (or the employee's dependent's) reproductive health decisions, without the employee's prior informed affirmative written consent;
- Discriminating or taking any retaliatory personnel action against an employee with respect to compensation, terms, conditions or privileges of employment because of or based on the employee's (or the employee's dependent's) reproductive health decisions; or
- Requiring an employee to sign a waiver or other document that purports to deny employees the right to make their own reproductive health care decisions.

Religious employers can choose not to provide health care coverage for abortions. However, your health insurance provider is required to provide notice to you ahead of time that they can provide coverage for medically necessary abortions directly.¹⁷¹

You also have the right to freely access an abortion clinic without physical interference from entering the clinic or threats of harm.¹⁷²

New York law strictly protects the confidentiality of all records related to an abortion, and your provider cannot disclose records related to abortion to anyone without your permission—including to a parent or guardian if you are a minor.¹⁷³

If you need help paying for your abortion or with travel or lodging costs related to your appointment, there are organizations dedicated to helping with those costs. For a list, visit: <https://abortionfunds.org>.

REASONABLE ACCOMMODATIONS IN NYC: Under New York City's Human Rights Law, employees (working for an employer with 4 or more employees) who are undergoing fertility treatment or who have had abortions or miscarriages are entitled to reasonable accommodations at work, including leave to recover from a procedure.¹⁷⁴

Preventive, Pregnancy, and Maternal Healthcare

Insurers are required to provide coverage for obstetric and gynecological services, including annual examinations and or unlimited care related to a pregnancy.¹⁷⁵ All insurers must also provide coverage for maternity care, including parent education assistance, training in breast or bottle-feeding, and any necessary maternal and newborn clinical testing.¹⁷⁶

Note that whether you have healthcare coverage through Medicaid, your employer, or an individual plan, your insurance cannot charge you out-of-pocket expenses for certain preventive services for women such as wellness visits, contraception, pregnancy related services, breastfeeding help, and breast and cervical cancer screenings.¹⁷⁷


What if I Do Not Have Health Insurance?

Various factors, such as lack of employment or immigration status, can serve as a barrier to obtaining health insurance. However, if you are not employed or your employer does not provide health insurance, New York State offers other options for healthcare.

Through the Affordable Care Act, if you are a lawfully present New York resident, you can purchase private health insurance through the New York State of Health Marketplace. To apply, visit <https://nystateofhealth.ny.gov> or call 1-855-355-5777.

Medicaid pays for all family planning services, including birth control and abortion services, as long as you use a health provider that accepts Medicaid. Emergency birth control is also covered without a prescription.¹⁷⁸ The Family Planning Extension Program to Medicaid also provides 24 months of family planning services after your pregnancy ends.¹⁷⁹

If you do not qualify for Medicaid, New York State's Family Planning Benefit Program also provides free and confidential family planning services, for adults and teenagers. The Family Planning Benefit Program offers most birth control methods, emergency contraceptives, family planning and pregnancy counseling. Pregnancy, pre-natal services, abortions, and fertility treatments are not covered.¹⁸⁰ For more information, visit: https://www.health.ny.gov/health_care/medicaid/program/longterm/familyplanbenprog.htm. New York State's Essential Plan is another free or very low cost insurance for adults with low incomes who do not qualify for Medicaid.

 **IMMIGRATION STATUS:** Individuals with eligible immigration status can receive public benefits, like Medicaid or the Children's Health Insurance Program, if they meet program requirements. Regardless of your immigration status, if you are pregnant, you have the right to Medicaid during your pregnancy. While there are waiting periods for coverage by Medicaid for some immigrants, Essential Plan is an option for those who have just moved to New York and have a valid visa or deferred action status. For more information, visit: <https://info.nystateofhealth.ny.gov/essentialplan>.



What Can I Do to Assert My Rights?

If you have concerns or believe that your rights have been violated, there are various actions you can take to advocate for yourself. In addition to the general guidance in Section 1, consider the following:

REVIEW YOUR HEALTH INSURANCE POLICY:

Review your plan to develop an understanding of the kind of coverage you have and be sure that all required services are covered. Look to see if there are any out-of-pocket costs for the care you are seeking and for how much. If you think something should be covered but it is not, be sure to contact your insurance provider and find out why. Be sure to review your billing statements to verify that you are not being charged for items that should be covered.

FILE A GRIEVANCE: If you want to contest something about your coverage, you can file a grievance or appeal. Under the law, your insurance provider must have a

grievance procedure, but act quickly because there are time limits on when you can file your grievance. Be sure to review your policy and your billing statements to see how long you have to file the complaint so that you do not miss any deadlines. In addition, you have the right to an appeal process when your insurer denies health care services. For more information, visit: https://www.dfs.ny.gov/complaints/file_a_complaint.

FILE AN ADMINISTRATIVE COMPLAINT: You have the right to file a federal complaint with the U.S. Department of Health and Human Services' Office for Civil Rights (OCR) (<https://www.hhs.gov/ocr/complaints/index.html>) or the EEOC (<https://www.eeoc.gov/field/newyork/charge.cfm>) against your employer or health insurance company if you feel discriminated against because of the family planning choices you have made.