

## State of New Jersey

### Governor Phil Murphy

# ICYMI: New Jersey, PA Win Nationwide Injunction Blocking Enforcement of Rules that Would Deny Women No-Cost Contraception

01/14/2019

*From the New Jersey Office of the Attorney General:*

#### ***Judge Bars Rules that Would Broaden Employer Exceptions to Coverage Requirements***

**TRENTON** – Attorney General Gurbir S. Grewal announced today that New Jersey and Pennsylvania have won a nationwide preliminary injunction in their joint lawsuit to block the rollback of federal rules that protect women's health by promoting the availability of no-cost contraceptive coverage.

Acting on a motion by the two states, Judge Wendy Beetlestone of the U.S. District Court for the Eastern District of Pennsylvania today issued an order barring the federal government from putting into effect rules that would significantly expand exceptions to Affordable Care Act (ACA) requirements for coverage of contraceptive services without cost sharing.

The court issued its decision after concluding that the Trump Administration lacks legal authority to adopt its new rules and that federal agencies likely violated procedural requirements in adopting them.

Today's ruling applies "across the Nation." Yesterday, in a separate lawsuit, a federal judge in California blocked the same rules, but that ruling was limited to a smaller number of states. Without the injunction secured by New Jersey and Pennsylvania, the rules would have taken effect today.

"Today, a federal judge blocked the latest attempt by the Trump Administration to undermine the promise of the Affordable Care Act by rolling back our residents' rights to essential preventative healthcare," **said Attorney General Grewal**. "The court's ruling is a significant victory for women's health. We will keep fighting for New Jersey's women and working families in court, while the Murphy Administration continues to make strides to improve women's access to quality health care at the state level."

As explained in the court's decision, the Women's Health Amendment to the ACA mandated that insurance providers cover preventive health services and screenings for women without cost-sharing responsibilities. In 2011, a federal agency, the Health Resources and Services Administration, determined that contraceptive methods were among the preventive care covered by the Women's Health Amendment.

The Obama Administration established a process for accommodating certain religious employers and other organizations that objected to providing contraceptive coverage for their employees. In rules issued in November 2018, the Trump Administration adopted significantly expanded these exceptions to the requirement to provide contraceptive coverage, prompting a lawsuit by New Jersey and Pennsylvania.

In today's ruling, the court agreed that the new rules would harm New Jersey and Pennsylvania financially by permitting "more employers to exempt themselves from the Contraceptive Mandate, which would result in more of the States' women seeking state-funded sources of contraceptive care." The court also agreed with the states that the federal government violated the law in issuing the rules.

The court rejected the federal government's argument that the states should be required to show how many women will lose contraceptive coverage as a result of the rule before the rules can be struck down. "[T]here is no need to wait for the axe to fall before an injunction is appropriate," the court stated, "particularly where [the federal government

has] estimated that it is about to fall on thousands of women."

In today's ruling, the court issued a nationwide injunction after finding that a narrower order would not give the states "complete relief" and would be "nigh impossible" to enforce. As the court explained, "hundreds of thousands of the States' citizens travel across state lines ... to work for out-of-state entities" and "with their many universities and educational institutes, the States take in tens of thousands of out-of-state students each year." "An injunction limited to Pennsylvania and New Jersey would, by its terms, not reach Pennsylvania and New Jersey citizens who work for out-of-state employers" or "cover out-of-state students attending school in Pennsylvania and New Jersey," the court continued.

Led by Massachusetts, 20 states and the District of Columbia filed amicus briefs supporting the preliminary injunction motion by New Jersey and Pennsylvania. A total of 24 women's advocacy groups, labor organizations and professional associations filed supporting amicus briefs as well.

The organizations supporting New Jersey and Pennsylvania's lawsuit include: California Women Lawyers; Girls Inc.; If/When/How: Lawyering for Reproductive Justice; Lawyers Club of San Diego; Service Employees International Union; American Association of University Women; American Federation of State, County, and Municipal Employees AFL-CIO; American Federation of Teachers; Colorado Women's Bar Association; National Association of Social Workers; National Association of Women Lawyers; Women's Bar Association of the District of Columbia, and the Women's Bar Association of Massachusetts. Also providing amicus support were: the National Association for Female Executives; U.S. Women's Chamber of Commerce; Physicians for Reproductive Health; American Academy of Nursing; American Academy of Pediatrics; American College of Obstetrics and Gynecology; American Nurses' Association; National Women's Law Center; National Latina Institute for Reproductive Health; SisterLove Inc., and the National Asian Pacific American Women's Forum.

Assistant Attorney General Glenn J. Moramarco and Deputy Attorneys General Elseph Faiman Hans and Kimberly A. Cahall are representing the State in this matter.

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