

United States Senate

WASHINGTON, DC 20510-0609

October 23, 2023

The Honorable Lloyd J. Austin III
Secretary of Defense
1000 Defense Pentagon
Washington, D.C. 20301-1000

The Honorable Ashish S. Vazirani
Acting Under Secretary of Defense for
Personnel and Readiness
4000 Defense Pentagon
Washington, D.C. 20301-4000

Lieutenant General Telita Crosland, MD, MPH
Director
Defense Health Agency
7700 Arlington Blvd. Ste 5101
Falls Church, VA 22042

Dear Secretary Austin, Acting Under Secretary Vazirani, and Lieutenant General Crosland:

In July, the U.S. Food and Drug Administration (FDA) approved Opill as the first over-the-counter (OTC) birth control pill in the United States.¹ We write to urge the Department of Defense (DoD) to expand TRICARE coverage to include OTC contraceptives with no cost-sharing or prescription requirement. We also request that the DoD stock OTC contraceptives in military treatment facilities, pharmacies, and exchanges.

The Military Health System serves approximately 1.6 million women of reproductive age, including servicemembers, retirees, and their dependents.² As part of the full spectrum of reproductive health care, contraception provides individuals control over their reproductive health and family planning. Access to contraception, as well as education about it, increases readiness and improves quality of life for our servicemembers and their families.

Studies show that requiring prescriptions for contraception can be a barrier to access due to prolonged appointment wait times, difficulty scheduling time off from work, and challenges finding childcare during medical appointment times—hurdles that are exacerbated by the nature of military service.³ The prescription requirement in part contributes to the lower rate of contraception use among active duty servicemembers compared to the national population.⁴

¹ <https://www.fda.gov/news-events/press-announcements/fda-approves-first-nonprescription-daily-oral-contraceptive>

² <https://crsreports.congress.gov/product/pdf/IN/IN11960>

³ Grindlay K, Grossman D. (2016) Prescription Birth Control Access Among U.S. Women at Risk of Unintended Pregnancy. J Womens Health, 2016 Mar;25(3):249-54. doi: 10.1089/jwh.2015.5312.

TRICARE should expand no-cost coverage to FDA-approved OTC contraceptives like Opill to further improve timely access for beneficiaries. Under current statute, the DoD may cover OTC drugs with no cost-sharing if the Defense Health Agency's (DHA) Pharmacy and Therapeutics Committee (Committee) finds that the medication is "cost effective and clinically effective," and recommends the medication be added to the uniform formulary without copayment.^{5,6}

Given the above, we request answers to the following questions:

- Will the Committee use its existing statutory and regulatory authority to review Opill and consider its inclusion in the uniform formulary with a \$0.00 copayment at its upcoming November 2023 meeting? If not, please provide reasoning as well as when Opill will be considered for formulary inclusion by the Committee.
- Will the DoD issue a standing order or use its existing regulatory authority to waive the prescription requirement for OTC contraceptives, both currently approved and those approved in the future?⁷ If not, please provide reasoning.
- Will the DoD work with the Army and Air Force Exchange System, the Navy Exchange, the Marine Corps Exchange, and the Coast Guard Exchange to stock OTC contraceptives in exchanges without unnecessary or burdensome restrictions? If not, please provide reasoning.

We appreciate the DoD's work to eliminate copayments for some contraceptives for active duty servicemembers and their families at military pharmacies and to establish walk-in contraceptive clinics.⁸ However, we recognize the need for a legislative fix to achieve parity between TRICARE coverage and *Affordable Care Act* (ACA) health plans so that TRICARE beneficiaries also have access to no cost daily use prescription birth control pills. To that end, we will work for comprehensive solutions to increase access to contraceptives for our servicemembers, including passage of the Access to Contraception for Servicemembers and Dependents Act.

We respectfully request a response to these questions by October 31, 2023. Thank you for your attention to this important matter.

Sincerely,



Michael F. Bennet
United States Senator



Mazie K. Hirono
United States Senator

⁴ https://www.rand.org/pubs/research_reports/RRA1031-1.html; <https://www.kff.org/report-section/contraception-in-the-united-states-a-closer-look-at-experiences-preferences-and-coverage-findings/#Use-of-Contraceptives>

⁵ 10 U.S.C. §1074g(a)(2)(F)

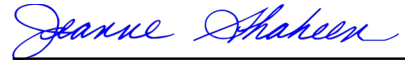
⁶ [https://www.ecfr.gov/current/title-32/subtitle-A/chapter-I/subchapter-M/part-199/section-199.21#p-199.21\(i\)\(2\)\(xii\)](https://www.ecfr.gov/current/title-32/subtitle-A/chapter-I/subchapter-M/part-199/section-199.21#p-199.21(i)(2)(xii))

⁷ [https://www.ecfr.gov/current/title-32/part-199/section-199.21#p-199.21\(h\)\(5\)\(ii\)](https://www.ecfr.gov/current/title-32/part-199/section-199.21#p-199.21(h)(5)(ii))

⁸ <https://www.federalregister.gov/d/2022-23465/p-18>



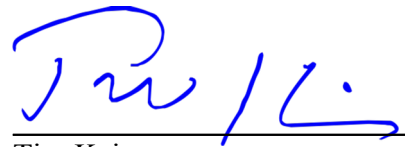
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United States Senator



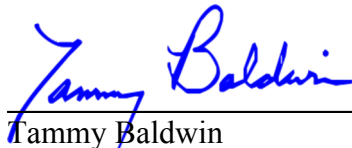
Jeanne Shaheen
United States Senator



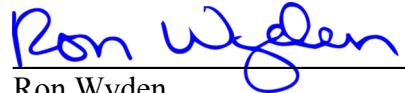
John Fetterman
United States Senator



Tim Kaine
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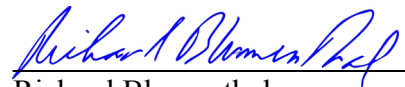
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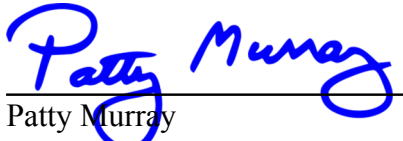
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United States Senator


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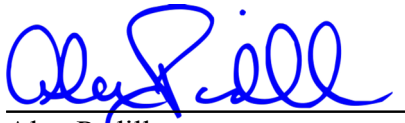

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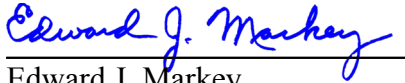

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