PROMOTING REPRODUCTIVE LIBERTY: REQUIRING INSURANCE COVERAGE OF CONTRACEPTION REMOVAL

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The full spectrum of reproductive choice crucially includes access to removal of contraceptive devices. Removal of long acting reversible contraception ("LARC"), whether in the form of intrauterine devices ("IUD") or arm implants, involves an expensive medical procedure just as initial insertion of the device does.[1] Although LARC methods are designed to provide contraceptive benefit for three to twelve years depending on the type,[2] the patient may desire to have the device removed at any time during that period. The reasons for removal may include the experience of side effects, altered family planning goals, or simply a change of mind. All of these are valid reasons for the patient to exercise their autonomy and make decisions about their own body and reproductive future. As such, true reproductive liberty requires that patients have access to the removal of LARC devices on demand.

Historically, the state's record of denying removal services to low-income patients has engendered severe and warranted distrust of state sponsored contraception provision and the reproductive rights movement at large within affected communities. Furthermore, the state's coercive practices are steeped in the racial animus of targeting low-income black communities with the specific intent of curbing reproduction and population growth. Throughout the 1960s and 1970s, federally funded programs facilitated the forced sterilization of thousands of black women.[3] When LARC methods came onto the market, they quickly became a prerequisite for attaining welfare benefits.[4] The narrative of contraception as a solution to intergenerational poverty and the damaging racist rhetoric about "the welfare queen" taking advantage of public funds resulted in a legacy of horrifically coercive state policies. A more recent example of this insidious trend is the mandatory insertion of Norplant, an arm implant contraceptive device, as a condition of receiving welfare.[5] The device is no longer available in the United States because of its dangerous side effects.[6] In the 1990s and early 2000s however, patients struggled to get

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[1] *See* Marie Beaugureau, *Birth Control Implant*, HEALTHLINE (Jan. 8, 2018), https://www.healthline.com/health/birth-control-implant; *How Does IUD Removal Work?*, PLANNED PARENTHOOD, https://www.plannedparenthood.org/learn/birth-control/iud/how-does-iud-removal-work (last visited Nov. 8, 2019).

[2] *About LARCs*, PLANNED PARENTHOOD, https://www.plannedparenthood.org/planned-parenthood-mar-monte/patient-resources/long-acting-reversible-contraception-2 (last visited Nov. 8, 2019).

[3] DOROTHY E. ROBERTS, KILLING THE BLACK BODY: RACE, REPRODUCTION, AND THE MEANING OF LIBERTY 56 (2017).

[4] *Id.* at 4.

[5] *See id.* at 104–14.

[6] Shari Roan, *Maker of Norplant Decides to Take Product Off Market*, L.A. TIMES (Aug. 5, 2002, 12:00 AM), https://www.latimes.com/archives/la-xpm-2002-aug-05-he-norplant5-story.html ("Some women complained about side effects such as menstrual irregularities, headaches and nausea. Others said they were scarred when doctors botched the insertion or removal of the rods. And hundreds of lawsuits alleging problems with Norplant were filed on behalf of women who claimed they had not been adequately informed of the contraceptive's risks.").

Medicaid coverage of removal procedures. In desperation, some even resorted to cutting the device out of their own arms. [7]

The dark past of coercive state sponsored contraception practices contextualizes and intensifies the importance of access to removal services today. For low-income patients, this translates to strong state policy mandating Medicaid coverage for the full spectrum of contraception related procedures, including elective removal. Federal law attempts to set this standard of care by requiring that all commercial plans and Medicaid plans subject to the Affordable Care Act cover contraception removal procedures without cost-sharing.[8] Some plans, however, have loophole payment policies such as bundled or global payments that functionally deny reimbursement for removal.[9] Furthermore, state Medicaid programs can deny coverage for removal procedures pursuant to a variety of arbitrary criteria. New York, Tennessee, and Oklahoma restrict IUD and implant removal coverage to cases of "medical necessity."[10] Alabama limits IUD removal coverage to cases where the patient suffers from high blood pressure, or other similarly dangerous medical conditions that would only allow for a progestin method of contraception.[11] Providers in many states may be reluctant to perform elective removal procedures out of concern that insurance plans might not cover subsequent insertion if the patient changes their mind.[12] These barriers continue the legacy of coercive state practices and functional denial of the full spectrum of reproductive liberty. If state sponsored insurance covers the insertion of contraceptive devices at no cost to the patient, the refusal to cover elective removal procedures is a gross violation of the patient's autonomy and bodily integrity.

The myopic focus on access to contraception insertion services and lack of attention to coverage for removal procedures betrays a fatal blind spot within the reproductive rights movement. "Reproductive justice" is a term coined by a group of black women in response to their consistent exclusion from the mainstream movement for reproductive liberty.[13] Achieving reproductive justice requires an analysis of gendered, sexualized, and racialized power systems, recognition of intersecting oppressions, and a focus on society's most marginalized.[14] The spirit of the term centers historical awareness and acknowledgement of the disproportionate harm suffered by minority and low-income communities under forced sterilization and coerced contraception state policy. The efforts of reproductive rights advocates ring hollow if they are

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[7] Roberts, *supra* note 3, at 130–31 ("An indication of users' desperation: an Ohio woman trapped in this bind tried to slice the implants out herself with a razor blade, but was not able to cut deep enough. A teenager on Medicaid in Chicago who used a sharpened pencil to dig out the capsules only succeeded in pushing them deeper into her arm.").
[8] *Intrauterine Devices & Implants: A Guide to Reimbursement*, U.C. S.F., https://larcprogram.ucsf.edu/removal (last visited Nov. 8, 2019).
[9] *Id*.
[10] Jenna Walls et al., *Medicaid Coverage of Family Planning Benefits: Results from a State Survey*, KAISER FAMILY FOUNDATION (Sept. 15, 2016), https://www.kff.org/report-section/medicaid-coverage-of-family-planning-benefits-results-from-a-state-survey-appendices/.
[11] *Id*.
[12] Julia Strasser et al., *Access to Removal of Long-acting Reversible Contraceptive Methods Is an Essential Component of High-Quality Contraceptive Care*, 27 WOMEN'S HEALTH ISSUES 253, 254 (2017).
[13] *Reproductive Justice*, SISTERSONG, https://www.sistersong.net/reproductive-justice (last visited Nov. 8, 2019) ("SisterSong defines Reproductive Justice as the human right to maintain personal bodily autonomy, have children, not have children, and parent the children we have in safe and sustainable communities.").
[14] *Id*.

neither informed by this history nor actively engaged in lifting up and earning back the trust of harmed communities. Fighting for expanded access to contraception removal services is a small step towards this recognition of the full spectrum of reproductive liberties and justice for all.