**Statement for the Record of the Center for Reproductive Rights**

**Hearing: “Veterans’ Access to Reproductive Healthcare”**

**U.S. House of Representatives Committee on Veterans’ Affairs  
Subcommittee on Health**

July 1, 2020

Chairwoman Brownley, Ranking Member Dunn, and Members of the House Committee on Veterans’ Affairs Subcommittee on Health:

The Center for Reproductive Rights respectfully submits the following testimony to the U.S. House of Representatives Committee on Veterans’ Affairs Subcommittee on Health.

Since 1992, the Center for Reproductive Rights has used the power of law to advance reproductive rights as fundamental human rights that governments around the world are obligated to protect, respect, and fulfill. Reproductive freedom lies at the heart of the promise of human dignity, self-determination, and equality embodied in both the U.S. Constitution and the Universal Declaration of Human Rights. Our litigation and advocacy over the past 26 years have expanded access to reproductive health care around the nation and the world. We have played a key role in securing legal victories in the United States, Latin America, Sub-Saharan Africa, Asia, and Eastern Europe on issues including access to life-saving obstetrics care, contraception, safe abortion services, and comprehensive sexuality information. We envision a world where every person participates with dignity as an equal member of society, regardless of gender; where every person is free to decide whether or when to have children and whether or when to get married; where access to quality reproductive health care is guaranteed; and where every person can make these decisions free from coercion or discrimination.

We appreciate the Subcommittee’s attention to the vital issue of reproductive health care access at the Department of Veterans Affairs (VA). Reproductive health care, including access to contraception, abortion, infertility care and maternal health services, is a fundamental health care need for an increasing number of veterans, as the demographic composition of the veteran population evolves. Women comprise approximately 10% of the total veteran community and are statistically the fastest growing cohort within that community.[[1]](#footnote-2) Within that group, women of reproductive age between ages 18-44 are the fastest growing subset of new VA users.[[2]](#footnote-3) In addition, research estimates that the veteran community includes more than 11,000 trans men.[[3]](#footnote-4) It is vital that the Department of Veterans Affairs is prepared to attend to all their health care needs.

Nonetheless, veterans in need of reproductive health care consistently face unnecessary barriers and restrictions when attempting to access that care through the Veterans Health Administration (VHA). Challenges and restrictions exist in almost every facet of care, from bans on abortion services to inequitable restrictions on who can access assisted reproductive technologies. Despite their service to the United States, veterans are often forced to seek and pay out of their own pockets for additional private care outside of the VHA system, as a direct result of the numerous institutional, financial and logistical barriers they face when trying to access reproductive health care. Veterans deserve full and equal access to the comprehensive range of health care they will need in the course of their reproductive life span, including access to high-quality contraceptive care, abortion services, assisted reproductive technology and maternity care.

Access to health care, including reproductive health care, is a human right, and the United States government should honor our veterans by ensuring access to this basic care. Lack of adequate reproductive health services can have profound impacts, including financial insecurity, increased risk of intimate partner violence, and maternal and neonatal deaths.[[4]](#footnote-5) These impacts are disproportionately felt by marginalized communities in the U.S who have long faced systemic barriers to health care—including low-income people, rural populations, people of color, LGBTQI people, people with disabilities, and immigrants.[[5]](#footnote-6) Access to timely, comprehensive essential health care including contraception and abortion is even more urgent and necessary as the country continues to endure the COVID-19 public health and economic crises.[[6]](#footnote-7)

1. **Veterans face unnecessary barriers to contraception.**

Contraception is an essential part of health care. Beyond allowing people to plan and space pregnancies, birth control can be used for a variety of non-contraceptive benefits, including management of medical conditions such as pre-menstrual dysphoric disorder, menstrual migraines and endometriosis.

Every year, VHA serves the contraceptive needs of approximately 24,000 female veterans.[[7]](#footnote-8) But unlike the millions of civilians insured under plans that comply with the Affordable Care Act, most veterans who access contraception through VHA must pay a copay for their contraception. This lack of parity is especially troubling when coupled with the fact that women veterans are more likely to live in poverty than male veterans. Similarly, transgender veterans are more likely to live in poverty than their cisgender counterparts. Even a small copay could be a prohibitive barrier to accessing contraception for those veterans.[[8]](#footnote-9) Studies show that the costs associated with contraception, even when small, lead women to forgo it completely, to choose less effective methods, or to use it inconsistently.[[9]](#footnote-10) Congress should act swiftly to eliminate copays on contraception for veterans, aligning veterans health benefits with those enjoyed by millions of civilians on ACA-compliant insurance plans.

Eliminating copays on contraception, especially in concert with other policy changes, could increase consistent use of oral contraceptives and prevent unintended pregnancies in the veteran population. For example, like most insurance systems in the country, the VA currently distributes three-month supplies of birth control pills, which must be refilled.[[10]](#footnote-11) However, VA data indicates that 43% of veterans who receive a three-month supply of oral contraceptives experience a gap of at least 7 days or more between contraceptive refills over the course of a year. [[11]](#footnote-12) Such gaps leave veterans at risk of an unintended pregnancy. Recent research indicates that requiring the VA to dispense a 12-month supply of contraception could significantly reduce unintended pregnancy rates among veterans and improve adherence to contraceptive methods. [[12]](#footnote-13)

1. **The VA must eliminate the ban on abortion in the VA Medical Benefits Package.**

Our Constitution protects the right of each of us to chart our own life path and to make the deeply personal decisions that impact our lives, our families, and our health, including whether and when to become a parent. One in four women in the United States will make the decision to have an abortion in the course of her life.[[13]](#footnote-14) Abortion is essential health care, a constitutional right, and a human right. And yet under existing VA regulations, VHA does not make abortion, or abortion counseling, available under any circumstances.[[14]](#footnote-15) This restriction is mirrored closely by regulations governing CHAMPVA, which prohibits abortion except to save the life of the pregnant person. As a result of these policies, veterans and their dependents either are denied care at VHA facilities, resulting in a delay in accessing care, or turn directly to private, out-of-network health care providers.

Abortion access is already at a precarious point in this country. The past decade has seen an escalating, coordinated attack on access to abortion care. Since 2011, more than 450 state laws restricting and banning abortion care have been enacted. These laws are designed to ensure that patients face often insurmountable financial and logistical barriers to care and clinics are forced to close.[[15]](#footnote-16) Six states—Kentucky, Mississippi, Missouri, North Dakota, South Dakota and West Virginia—have only one abortion clinic.[[16]](#footnote-17) Eighty-nine percent of counties in the United States do not have a single abortion clinic and some counties that have a clinic only provide abortion services on certain days of the week.[[17]](#footnote-18) In addition, many states require multiple, medically unnecessary provider visits or unnecessary medical services. These barriers both delay care and prolong the time a patient must take to receive care.[[18]](#footnote-19) On average, a patient must wait at least a week between when they attempt to make an appointment and when they receive an abortion.[[19]](#footnote-20) All of these barriers and costs are exacerbated if a patient first seeks and is denied care by a VHA facility.

Delays have the effect of increasing the cost of abortion care. Abortion in the first trimester is substantially less expensive than in the second trimester.[[20]](#footnote-21) The rising cost of abortion as gestational age increases poses a profound challenge to the affordability of the procedure for lower-income women. And because fewer clinics offer second-trimester abortions, a patient who has been delayed into the second trimester will typically be required to travel farther to obtain an abortion, thereby incurring additional travel and related costs, including costs for child care, transportation, or hotel stays.[[21]](#footnote-22) As a result, denials of care that result in delays can significantly drive up the cost for a patient seeking abortion care, which can push care out of reach—particularly for low-income veterans and those residing in states with few abortion providers.

It is unconscionable that the VA health care system imposes these burdens on veterans in need of essential health care. The Department of Veterans Affairs must urgently rescind the regulations prohibiting abortion at VHA, and ensure its medical benefits package includes abortion and abortion counseling just as it does all other pregnancy-related care.

1. **Veterans must have full, equitable access to infertility care as part of their medical benefits package**

In the U.S., millions of people are impacted by infertility. Data from CDC National Survey of Family Growth 2015-2017, the most recent survey on this subject, reports that 8.8% of married women in the United States aged 15-49 were infertile.[[22]](#footnote-23) While research on infertility incidence and access to infertility care use in the United States is limited, there is even less data available for the military community. However, a recent study by the Service Women’s Action Network (SWAN), which surveyed 799 female servicemembers and veterans, revealed that 37% of respondents struggled with infertility—over three times higher than the national average.[[23]](#footnote-24) While this is not a nationally representative survey, it nevertheless indicates that infertility is of increasing concern among veterans, particularly as the number of female veterans continues to grow.

In the course of their service, many veterans have been exposed to job-related risk factors that can cause infertility or are linked to a greater risk of infertility. While more research is needed to obtain reliable data, it is likely that exposure to these risk factors results in higher infertility rates among servicemembers and veterans. For example, soldiers deployed in combat areas may experience service-related injuries that render them infertile. Combat-related injuries that adversely impact fertility include spine/spinal cord and head injuries, which particularly affect male fertility, and genital/pelvic trauma, which may affect fertility in both men and women.[[24]](#footnote-25) Women who are deployed in combat zones often are also exposed to an additional risk factor most men are not: combat gear that is not designed for use by women. Ill-fitting combat gear can cause injuries, including injuries that could directly or indirectly affect fertility.[[25]](#footnote-26)In addition, some military occupations may hold their own, unique risks. Exposure to toxic chemicals can harm the reproductive system and potentially cause infertility.[[26]](#footnote-27) As a result, veterans who were exposed to harmful chemicals as an essential function of their jobs may be at substantially higher risk of infertility than other veterans or the civilian population at large. These include engineers handling solvents to clean or strip plane parts, servicemembers who specialize in hazardous waste cleanup, or those who are exposed to contaminated water and burn pits during deployment.

When veterans struggle to conceive and seek out care, they are subject to discriminatory restrictions on insurance coverage, the high costs of in vitro fertilization (IVF) services, and logistical and systemic barriers to care. The Veterans Health Administration’s medical benefits package specifically excludes coverage for IVF.[[27]](#footnote-28) However, pursuant to a provision first attached to the annual appropriations bill in 2016 and included every year since then, VHA currently funds IVF for a narrow subset of veterans. Because the current provision is tied to the annual appropriations bill, the funding for even this narrow population of veterans is not permanent.

Under the provision, only veterans who are diagnosed with a service-related condition that led to their inability to procreate with their spouse are eligible for IVF.[[28]](#footnote-29) It is often difficult to prove that a service-connected illness or injury caused clinical infertility, unless it manifests as physical trauma to the reproductive organs.[[29]](#footnote-30) VHA’s eligibility requirements are designed to mirror those under TRICARE,[[30]](#footnote-31) which effectively excludes single and unmarried veterans, those in same-sex marriages, and those who cannot prove a service-connected illness or injury as ineligible. As a result, non-eligible individuals from these groups must seek care from non-VA providers, where they face substantially higher out-of-pocket costs that are prohibitive to many.

The out-of-pocket cost of IVF is substantial. The average cost of a single IVF cycle in the United States is over $20,000 when including necessary medications and tests.[[31]](#footnote-32) Although success rates vary, the rate of live births following first-use IVF for women under the age of 35 using their own oocytes in 2018 was only 30%.[[32]](#footnote-33) The chances of live birth increase with each cumulative IVF cycle,[[33]](#footnote-34) but multiple cycles result in increased costs. This forces some people to consider taking out loans, turning to crowdfunding platforms, getting treatments in other countries with lower costs, or moving to states where IVF insurance coverage is mandated.[[34]](#footnote-35)

Women who have insurance coverage for IVF are more likely to have a successful live birth because they continue to access care over multiple cycles, versus women who pay out of pocket and can only afford one cycle.[[35]](#footnote-36) High out-of-pocket costs can lead women to discontinue IVF care after one unsuccessful IVF cycle.[[36]](#footnote-37) Women without insurance coverage, in particular, are three times more likely than women *with* insurance coverage to discontinue infertility services after one round.[[37]](#footnote-38)

Congress and the Administration should take immediate steps to eliminate the discriminatory policies that restrict access to this essential care. We recommend the implementation of policies to ensure that all servicemembers and veterans receive insurance coverage for “non-coital” reproductive services such as intrauterine insemination (IUI) and IVF, without limitations with regard to whether their infertility is service-connected, whether they are impacted by clinical or social infertility (e.g., they are single or in same-sex partnerships), their marital status, or their sexual orientation. Such insurance coverage should include at least three cycles of IVF.

Additionally, more research is needed to assess the scope and cause of infertility among veterans. Congress and the administration should take immediate steps to collect and make publicly available, on a regular basis, data on infertility among veterans, including: The number of self-reported cases of infertility, either clinical or social; the number of diagnosed clinical infertility cases; the number of clinical infertility diagnoses that are “unexplained”; the number of people diagnosed with clinical infertility and also known to be exposed to service-related toxic chemicals in the course of their military service; the number of patients who would be eligible for fertility services but for their marital status; the extent to which there are data gaps in infertility incidence and access to care for veterans of color; and whether there is a discrepancy between self-reported incidence of infertility and rates assessed by diagnostic codes within the system of the Veterans Health Administration.

1. **Congress must improve data collection to better understand the scope and impact of the maternal health crisis on veterans and VHA must take subsequent steps to reduce adverse maternal health outcomes among veterans if they exist.**

The United States is currently experiencing a severe public health and human rights crisis. Women in the United States are dying as a result of pregnancy and childbirth at an alarming rate—higher than any other developed country and continuing to rise.[[38]](#footnote-39) The data shows that many of these deaths are preventable.[[39]](#footnote-40) The maternal health crisis also disproportionately affects Black and Indigenous women, who are far more likely to die from pregnancy related complications than white women.[[40]](#footnote-41) Despite this crisis, very little is known about the maternal mortality and morbidity among the United States’ nearly two million women veterans.[[41]](#footnote-42) The VA does not operate a Maternal Mortality Review Committee and as such there is a critical lack of data on the maternal health outcomes of veterans and the scope and impact of the maternal mortality crisis on this population.

Regarding the need for more data, The Protecting Moms Who Served Act (H.R. 6141), introduced to the House of Representatives in March of this year, aims to create a comprehensive report of maternal health outcomes among women veterans, with a particular focus on racial and ethnic disparities. Congress must pass this Act as an important first step to gather the data necessary to better serve women veterans and their maternal care needs during the existing maternal mortality crisis. If the data show that the maternal mortality crisis exists among the nation’s veterans, Congress must then take proactive action to find solutions—to guarantee that those who serve our country are supported throughout the entirety of their reproductive lives and guaranteed quality maternal health care.

1. **Conclusion**

The Center for Reproductive Rights deeply appreciates the opportunity to submit its testimony to the Committee and commends the Committee for addressing this critical issue. As the Committee examines access to reproductive health care at the VA, we urge it to take the appropriate actions to ensure that our veterans receive the highest standard of reproductive health care.

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