



Written by [Jack Kenny](#) on May 13, 2013

Federal Judge Stands By Ruling: “Morning After” Pill for All Ages

A federal judge Friday turned down a request by government lawyers to suspend his decision that the “morning after” contraceptive pill be available for the over-the-counter purchase by girls of any age. Judge Edward R. Korman of the U.S. District Court for the Eastern District of New York [rejected](#) as “frivolous” and “silly” the U.S. Department of Justice request for a delay pending an appeal of his April 5 ruling against any age limit on the availability of the drug, called Plan B One Step. As in his April ruling, Korman was harshly critical of Health and Human Services Secretary Kathleen Sebelius for imposing a minimum age of 17 for purchase of the pill.



“If a stay is granted, it will allow the bad-faith, politically motivated decision of Secretary Sebelius, who lacks any medical or scientific expertise, to prevail — thus justifiably undermining the public’s confidence in the drug approval process,” the judge wrote.

Yet according to the [New York Times](#), Judge Korman himself had set the age limit at 17. The Food and Drug Administration approved the pill as a prescription-only drug in 1999, and two years later the Center for Reproductive Rights filed a citizens’ petition for it to be available without a prescription. The FDA turned down the petition, but in 2006, the George W. Bush administration approved over-the-counter sales for women 18 or older. Korman ruled in 2009 that Plan B must be available without prescription for those 17 and older.

Sebelius in 2011 overruled an FDA decision to allow sale of the drug without a prescription to anyone regardless of age. The HHS secretary reimposed the age 17 requirement that Korman struck down last month, calling it “arbitrary, capricious and unreasonable.” The action by Sebelius, the judge ruled, was “politically motivated, scientifically unjustified, and contrary to agency precedent.”

The arbitrariness of the judge in overruling his own precedent may be left to another court to judge. Korman postponed the effective date of Friday’s ruling until Monday, so the government can take the request for a delay to a federal appeals court.

Sebelius said at the time that her decision to overrule the FDA was based on science because she noted that the manufacturer had failed to study whether the drug was safe for girls as young as 11, about 10 percent of whom are physically able to bear children. But her decision, though backed by President Obama, was criticized by many Obama supporters as politically motivated ploy to spare the president further criticism from conservative and pro-life groups, who might otherwise charge he was promoting sexual activity among adolescents and even pre-teens. An HHS official, who declined to be named, [told](#) the *New York Times* last month: “We would have been fighting the contraception fight over whether we



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let a 7-year-old girl walk into Walgreens and get the morning-after pill.”

That apparently will be allowed now, unless the Korman ruling is overturned. Though called “emergency contraception,” the Plan B pill may be used as a back-up contraception for routine, casual sex. It has been opposed by abortion foes because in many cases it acts as an abortifacient, preventing the fertilized ovum from attaching to the womb.

“By preventing implantation, Plan B is terminating the life of an already developing human being,” wrote William Saunders and Mallee Smith for [lifenews.com](#). And while the Obama administration may not approve of it for 11-year-olds, ObamaCare requires that the Plan B pill be included in the healthcare coverage employers provide for their workers.

“By making Plan B available to minors, young girls may take the lives of their unborn children without parental involvement and without really knowing the effects of the drugs,” Saunders and Smith wrote. “And by coercing employers to provide insurance coverage of ‘emergency contraception’ or face ruinous fines under ‘Obamacare,’ those employers are being forced to pay for drugs that end the lives of human beings — regardless of their religious conscientious objections. We’d call that a ‘big deal’ of constitutional proportions.”



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