

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 21-0583.01 Shelby Ross x4510

SENATE BILL 21-016

SENATE SPONSORSHIP

Pettersen and Moreno, Buckner, Danielson, Donovan, Fenberg, Garcia, Ginal, Gonzales, Hansen, Jaquez Lewis, Lee, Story, Winter, Zenzinger

HOUSE SPONSORSHIP

Esgar and Mullica,

Senate Committees

Health & Human Services
Appropriations

House Committees

Health & Insurance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING SERVICES RELATED TO PREVENTIVE HEALTH CARE, AND,**
102 **IN CONNECTION THEREWITH, REQUIRING COVERAGE FOR**
103 **CERTAIN PREVENTIVE MEASURES, SCREENINGS, AND**
104 **TREATMENTS THAT ARE ADMINISTERED, DISPENSED, OR**
105 **PRESCRIBED BY HEALTH CARE PROVIDERS AND FACILITIES AND**
106 **MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill codifies a number of preventive health care services

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
May 5, 2021

SENATE
Amended 2nd Reading
May 4, 2021

currently required to be covered by health insurance carriers pursuant to the federal "Patient Protection and Affordable Care Act" and adds them to the current list of services required to be covered by Colorado health insurance carriers, which services are not subject to policy deductibles, copayments, or coinsurance. The bill expands certain preventive health care services to include osteoporosis screening; urinary incontinence screening; and counseling, prevention, screening, and treatment of a sexually transmitted infection (STI).

Current law requires a health care provider or facility to perform a diagnostic exam for an STI and subsequently treat the STI at the request of a minor patient. The bill allows a health care provider to administer, dispense, or prescribe preventive measures or medications where applicable. The consent of a parent is not a prerequisite for a minor to receive preventive care, but a health care provider shall counsel the minor on the importance of bringing the minor's parent or legal guardian into the minor's confidence regarding the services.

Current law requires the executive director of the department of health care policy and financing to authorize reimbursement for medical or diagnostic services provided by a certified family planning clinic. The bill removes the requirement that services be provided by a certified family planning clinic and authorizes reimbursement for family planning services and family-planning-related services provided by any licensed health care provider.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 10-16-104, **amend**
3 (18)(a)(I) introductory portion and (18)(a)(III)(A); and add (18)(b)(XI)
4 and (18.1) as follows:

5 **10-16-104. Mandatory coverage provisions - rules -**
6 **definitions. (18) Preventive health care services.** (a) (I) The following
7 policies and contracts that are delivered, issued, renewed, or reinstated on
8 or after January 1, 2010, must provide coverage for the total cost of the
9 preventive health care services specified in ~~paragraph (b) of this~~
10 ~~subsection (18)~~ **SUBSECTION (18)(b) OF THIS SECTION:**

11 (III) (A) Except as provided in ~~sub-subparagraph (B) of this~~
12 ~~subparagraph (H)~~ **SUBSECTION (18)(a)(III)(B) OF THIS SECTION,** coverage

1 required by this subsection (18) is not subject to policy deductibles,
2 copayments, or coinsurance.

3 (b) The coverage required by this subsection (18) must include
4 preventive health care services for the following, in accordance with the
5 A or B recommendations of the task force for the particular preventive
6 health care service:

7 (XI) (A) COUNSELING, PREVENTION, AND SCREENING FOR A
8 SEXUALLY TRANSMITTED INFECTION, AS DEFINED IN SECTION 25-4-402
9 (10); EXCEPT THAT THE COVERAGE UNDER THIS SUBSECTION (18)(b)(XI)
10 MUST BE PROVIDED TO ALL COVERED PERSONS REGARDLESS OF THE
11 COVERED PERSON'S GENDER.

12 (B) THE DIVISION SHALL SUBMIT TO THE FEDERAL DEPARTMENT OF
13 HEALTH AND HUMAN SERVICES ITS DETERMINATION AS TO WHETHER THE
14 BENEFIT SPECIFIED IN THIS SUBSECTION (18)(b)(XI) IS IN ADDITION TO
15 ESSENTIAL HEALTH BENEFITS AND WOULD BE SUBJECT TO DEFAYAL BY
16 THE STATE PURSUANT TO 42 U.S.C. SEC. 18031 (d)(3)(B) AND A REQUEST
17 THAT THE FEDERAL DEPARTMENT CONFIRM THE DIVISION'S
18 DETERMINATION WITHIN SIXTY DAYS AFTER RECEIPT OF THE DIVISION'S
19 REQUEST AND SUBMISSION OF ITS DETERMINATION.

20 (C) THIS SUBSECTION (18)(b)(XI) APPLIES TO LARGE EMPLOYER
21 POLICIES OR CONTRACTS ISSUED OR RENEWED ON OR AFTER JANUARY 1,
22 2022, AND TO INDIVIDUAL AND SMALL GROUP POLICIES AND CONTRACTS
23 ISSUED ON OR AFTER JANUARY 1, 2023, AND THE DIVISION SHALL
24 IMPLEMENT THE REQUIREMENTS OF THIS SUBSECTION (18)(b)(XI) IF THE
25 DIVISION RECEIVES CONFIRMATION FROM THE FEDERAL DEPARTMENT OF
26 HEALTH AND HUMAN SERVICES THAT THE COVERAGE SPECIFIED IN THIS
27 SUBSECTION (18)(b)(XI) DOES NOT CONSTITUTE AN ADDITIONAL BENEFIT

1 THAT REQUIRES DEFRAYAL BY THE STATE PURSUANT TO 42 U.S.C. SEC.
2 18031 (d)(3)(B); THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN
3 SERVICES HAS OTHERWISE INFORMED THE DIVISION THAT THE COVERAGE
4 DOES NOT REQUIRE STATE DEFRAYAL PURSUANT TO 42 U.S.C. SEC. 18031
5 (d)(3)(B); OR MORE THAN THREE HUNDRED SIXTY-FIVE DAYS HAVE PASSED
6 SINCE THE DIVISION SUBMITTED ITS DETERMINATION AND REQUEST FOR
7 CONFIRMATION THAT THE COVERAGE SPECIFIED IN THIS SUBSECTION
8 (18)(b)(XI) IS NOT AN ADDITIONAL BENEFIT THAT REQUIRES STATE
9 DEFRAYAL PURSUANT TO 42 U.S.C. SEC. 18031 (d)(3)(B), AND THE
10 FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES HAS FAILED TO
11 RESPOND TO THE REQUEST WITHIN THAT PERIOD, IN WHICH CASE THE
12 DIVISION SHALL CONSIDER THE FEDERAL DEPARTMENT'S UNREASONABLE
13 DELAY A PRECLUSION FROM REQUIRING DEFRAYAL BY THE STATE.

14 (18.1) Contraception. (a) POLICIES OR CONTRACTS DESCRIBED
15 IN SUBSECTION (18)(a)(I) OF THIS SECTION ISSUED OR RENEWED IN THIS
16 STATE MUST PROVIDE COVERAGE FOR THE TOTAL COST OF
17 CONTRACEPTION, AS DEFINED IN SECTION 2-4-401 (1.5).

18 (b) THE COVERAGE REQUIRED BY THIS SUBSECTION (18.1) IS NOT
19 SUBJECT TO POLICY DEDUCTIBLES, COPAYMENTS, OR COINSURANCE.

20 (c) THIS SUBSECTION (18.1) DOES NOT APPLY TO GRANDFATHERED
21 HEALTH BENEFIT PLANS.

22 (d) (I) THE DIVISION SHALL SUBMIT TO THE FEDERAL DEPARTMENT
23 OF HEALTH AND HUMAN SERVICES:

24 (A) ITS DETERMINATION AS TO WHETHER THE BENEFIT SPECIFIED
25 IN THIS SUBSECTION (18.1) IS IN ADDITION TO ESSENTIAL HEALTH BENEFITS
26 AND WOULD BE SUBJECT TO DEFRAYAL BY THE STATE PURSUANT TO 42
27 U.S.C. SEC. 18031 (d)(3)(B); AND

1 (B) A REQUEST THAT THE FEDERAL DEPARTMENT CONFIRM THE
2 DIVISION'S DETERMINATION WITHIN SIXTY DAYS AFTER RECEIPT OF THE
3 DIVISION'S REQUEST AND SUBMISSION OF ITS DETERMINATION.

4 (II) THIS SUBSECTION (18.1) APPLIES TO LARGE EMPLOYER
5 POLICIES OR CONTRACTS ISSUED OR RENEWED ON OR AFTER JANUARY 1,
6 2022, AND TO INDIVIDUAL AND SMALL GROUP POLICIES AND CONTRACTS
7 ISSUED ON OR AFTER JANUARY 1, 2023, AND THE DIVISION SHALL
8 IMPLEMENT THE REQUIREMENTS OF THIS SUBSECTION (18.1), IF:

9 (A) THE DIVISION RECEIVES CONFIRMATION FROM THE FEDERAL
10 DEPARTMENT OF HEALTH AND HUMAN SERVICES THAT THE COVERAGE
11 SPECIFIED IN THIS SUBSECTION (18.1) DOES NOT CONSTITUTE AN
12 ADDITIONAL BENEFIT THAT REQUIRES DEFAYAL BY THE STATE PURSUANT
13 TO 42 U.S.C. SEC. 18031 (d)(3)(B);

14 (B) THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES
15 HAS OTHERWISE INFORMED THE DIVISION THAT THE COVERAGE DOES NOT
16 REQUIRE STATE DEFAYAL PURSUANT TO 42 U.S.C. SEC. 18031 (d)(3)(B);
17 OR

18 (C) MORE THAN THREE HUNDRED SIXTY-FIVE DAYS HAVE PASSED
19 SINCE THE DIVISION SUBMITTED ITS DETERMINATION AND REQUEST FOR
20 CONFIRMATION THAT THE COVERAGE SPECIFIED IN THIS SUBSECTION (18.1)
21 IS NOT AN ADDITIONAL BENEFIT THAT REQUIRES STATE DEFAYAL
22 PURSUANT TO 42 U.S.C. SEC. 18031 (d)(3)(B), AND THE FEDERAL
23 DEPARTMENT OF HEALTH AND HUMAN SERVICES HAS FAILED TO RESPOND
24 TO THE REQUEST WITHIN THAT PERIOD, IN WHICH CASE THE DIVISION
25 SHALL CONSIDER THE FEDERAL DEPARTMENT'S UNREASONABLE DELAY A
26 PRECLUSION FROM REQUIRING DEFAYAL BY THE STATE.

27

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1 **SECTION 2.** In Colorado Revised Statutes, 25-4-409, **amend**
2 (1)(a) and (2) as follows:

3 **25-4-409. Minors - treatment - consent.** (1) (a) A health care
4 provider or facility, if consulted by a patient who is a minor, shall
5 perform, at the minor's request, a diagnostic examination for a sexually
6 transmitted infection. The health care provider or facility shall treat the
7 minor for a sexually transmitted infection, if necessary; discuss,
8 ~~prevention~~ ADMINISTER, DISPENSE, OR PRESCRIBE PREVENTIVE measures
9 OR MEDICATIONS, where applicable; and include appropriate therapies and
10 prescriptions.

11 (2) The consent of a parent or legal guardian is not a prerequisite
12 for a minor to receive a consultation, examination, PREVENTIVE CARE, or
13 treatment for sexually transmitted infections. For the purposes of this
14 section, health care provided to a minor is confidential, and information
15 related to that care must not be divulged to any person other than the
16 minor; except that the reporting required pursuant to the "Child Protection
17 Act of 1987", part 3 of article 3 of title 19, ~~C.R.S.~~, still applies. If the
18 minor is thirteen years of age or younger, the health care provider may
19 involve the minor's parent or legal guardian. A health care provider shall
20 counsel the minor on the importance of bringing ~~his or her~~ THE MINOR'S
21 parent or legal guardian into the minor's confidence regarding the
22 consultation, exam, or treatment.

23 **SECTION 3.** In Colorado Revised Statutes, **amend** 25.5-4-412
24 as follows:

25 **25.5-4-412. Family planning services - family-planning-related**
26 **services - rules - definitions.** (1) When ~~medical or diagnostic~~ FAMILY
27 PLANNING services OR FAMILY-PLANNING-RELATED SERVICES are provided

1 in accordance with this ~~article~~ ARTICLE 4 and articles 5 and 6 of this title
2 ~~by a certified family planning clinic~~ TITLE 25.5, the executive director of
3 the state department shall authorize reimbursement for the services, ~~The~~
4 ~~reimbursement shall be made directly to the certified family planning~~
5 ~~clinic~~ SUBJECT TO SECTION 50 OF ARTICLE V OF THE STATE CONSTITUTION.
6 THE STATE DEPARTMENT, ANY INTERMEDIARY, OR ANY MANAGED CARE
7 ORGANIZATION SHALL REIMBURSE THE PROVIDER OF THOSE SERVICES.
8 FAMILY PLANNING SERVICES AND FAMILY-PLANNING-RELATED SERVICES
9 ARE NOT SUBJECT TO POLICY DEDUCTIBLES, COPAYMENTS, OR
10 COINSURANCE.

11 (2) ~~For purposes of AS USED IN this section, "certified family~~
12 ~~planning clinic" means a family planning clinic certified by the Colorado~~
13 ~~department of public health and environment, accredited by a national~~
14 ~~family planning organization, and staffed by medical professionals~~
15 ~~licensed to practice in the state of Colorado, including, but not limited to,~~
16 ~~doctors of medicine, doctors of osteopathy, physician assistants, and~~
17 ~~advanced practice nurses.~~ UNLESS THE CONTEXT OTHERWISE REQUIRES:

18 (a) "FAMILY-PLANNING-RELATED SERVICES" MEANS SERVICES
19 PROVIDED IN A FAMILY PLANNING SETTING AS PART OF OR AS A FOLLOW-UP
20 TO A FAMILY PLANNING VISIT, INCLUDING:

21 (I) MEDICALLY NECESSARY EVALUATIONS OR PREVENTIVE
22 SERVICES, SUCH AS TOBACCO UTILIZATION SCREENING, COUNSELING,
23 TESTING, AND CESSATION SERVICES;

24 (II) CERVICAL CANCER SCREENING AND PREVENTION;

25 (III) DIAGNOSIS OR TREATMENT OF A SEXUALLY TRANSMITTED
26 INFECTION OR SEXUALLY TRANSMITTED DISEASE, AND MEDICATION AND
27 SUPPLIES TO PREVENT A SEXUALLY TRANSMITTED INFECTION OR SEXUALLY

1 TRANSMITTED DISEASE; AND

2 (IV) ANY OTHER MEDICAL DIAGNOSIS, TREATMENT, OR
3 PREVENTIVE SERVICE THAT IS ROUTINELY PROVIDED PURSUANT TO A
4 FAMILY PLANNING VISIT.

5 (b) "FAMILY PLANNING SERVICES" MEANS ALL SERVICES COVERED
6 BY THE FEDERAL TITLE X FAMILY PLANNING PROGRAM, REGARDLESS OF
7 AN INDIVIDUAL'S AGE, SEX, OR GENDER IDENTITY, OR THE AGE, SEX, OR
8 GENDER IDENTITY OF THE INDIVIDUAL'S PARTNER, INCLUDING BUT NOT
9 LIMITED TO:

10 (I) ALL CONTRACEPTION, AS DEFINED IN SECTION 2-4-401 (1.5);

11 (II) HEALTH-CARE AND COUNSELING SERVICES FOCUSED ON
12 PREVENTING, DELAYING, OR PLANNING FOR A PREGNANCY;

13 (III) FOLLOW-UP VISITS TO EVALUATE OR MANAGE PROBLEMS
14 ASSOCIATED WITH CONTRACEPTIVE METHODS;

15 (IV) STERILIZATION SERVICES, REGARDLESS OF AN INDIVIDUAL'S
16 SEX; AND

17 (V) BASIC FERTILITY SERVICES.

18 ~~(3) For purposes of this section, all medical care services or goods~~
19 ~~rendered by a certified family planning clinic that are benefits of the~~
20 ~~Colorado medical assistance program. shall be ordered by a physician~~
21 ~~who need not be physically present on the premises of the certified family~~
22 ~~planning clinic at the time services are rendered.~~

23 ~~(4) Nothing in this section shall be construed as expanding the~~
24 ~~provision of services available as a part of the medical assistance program~~
25 ~~established pursuant to this article and articles 5 and 6 of this title. For~~
26 ~~purposes of making payments to certified family planning clinics pursuant~~
27 ~~to this section~~ PROVIDERS, the state board shall establish rules

1 implementing this section. ~~The rules promulgated pursuant to this~~
2 ~~subsection (4) shall ensure that the reimbursement for services rendered~~
3 ~~by a certified family planning clinic pursuant to this section shall not be~~
4 ~~the sole result of an increase in the costs to the state medical assistance~~
5 ~~program.~~

6 (5) ANY RECIPIENT MAY OBTAIN FAMILY PLANNING SERVICES OR
7 FAMILY-PLANNING-RELATED SERVICES FROM ANY LICENSED HEALTH CARE
8 PROVIDER, INCLUDING BUT NOT LIMITED TO A DOCTOR OF MEDICINE,
9 DOCTOR OF OSTEOPATHY, PHYSICIAN ASSISTANT, OR ADVANCED PRACTICE
10 NURSE, WHO PROVIDES SUCH SERVICES. THE ENROLLMENT OF A RECIPIENT
11 IN A MANAGED CARE ORGANIZATION, OR A SIMILAR ENTITY, DOES NOT
12 RESTRICT A RECIPIENT'S CHOICE OF THE LICENSED PROVIDER FROM WHOM
13 THE RECIPIENT MAY RECEIVE THOSE SERVICES.

14 (6) THE STATE BOARD SHALL PROMULGATE RULES ESTABLISHING
15 THE SPECIFIC FAMILY-PLANNING-RELATED SERVICES AND FAMILY
16 PLANNING SERVICES IDENTIFIED IN SUBSECTIONS (2)(a) AND (2)(b) OF THIS
17 SECTION. PRIOR TO PROMULGATING THE RULES, THE STATE DEPARTMENT
18 SHALL ENGAGE IN A STAKEHOLDER PROCESS THAT ATTEMPTS TO INCLUDE
19 INDIVIDUALS WHO HAVE RECEIVED FAMILY PLANNING SERVICES THROUGH
20 THE STATE'S MEDICAL ASSISTANCE PROGRAM OR THE CHILDREN'S BASIC
21 HEALTH PLAN, REPRESENTATIVES OF CONSUMER ADVOCACY
22 ORGANIZATIONS, AND FAMILY PLANNING PROVIDERS. THE STAKEHOLDERS
23 MUST BE DIVERSE WITH REGARD TO RACE, ETHNICITY, IMMIGRATION
24 STATUS, AGE, ABILITY, SEXUAL ORIENTATION, GENDER IDENTITY, OR
25 GEOGRAPHIC REGION OF THE STATE.

26 **SECTION 4. Appropriation.** (1) For the 2021-22 state fiscal
27 year, \$90,547 is appropriated to the department of health care policy and

1 financing. This appropriation is from the general fund. To implement this
2 act, the department may use this appropriation for the Medicaid
3 management information system maintenance and projects.

4 (2) For the 2021-22 state fiscal year, the general assembly
5 anticipates that the department of health care policy and financing will
6 receive \$814,920 in federal funds for the Medicaid management
7 information system maintenance and projects to implement this act. The
8 appropriation in subsection (1) of this section is based on the assumption
9 that the department will receive this amount of federal funds, which is
10 subject to the "(I)" notation as defined in the annual general appropriation
11 act for the same fiscal year.

12 (3) For the 2021-22 state fiscal year, \$13,353 is appropriated to
13 the department of regulatory agencies for use by the division of insurance.
14 This appropriation is from the division of insurance cash fund created in
15 section 10-1-103 (3), C.R.S., and is based on an assumption that the
16 division will require an additional 0.2 FTE. To implement this act, the
17 division may use this appropriation for personal services.

18 **SECTION 5. Applicability.** Section 1 of this act applies to health
19 benefit plans issued or renewed on or after January 1, 2023.

20 **SECTION 6. Safety clause.** The general assembly hereby finds,
21 determines, and declares that this act is necessary for the immediate
22 preservation of the public peace, health, or safety.