

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

**ENGROSSED**

*This Version Includes All Amendments Adopted  
on Second Reading in the House of Introduction*

LLS NO. 16-0517.01 Christy Chase x2008

**HOUSE BILL 16-1294**

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**A BILL FOR AN ACT**

101     **CONCERNING HEALTH CARE COVERAGE FOR CONTRACEPTIVES FOR**

102     **WOMEN.**

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**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://www.leg.state.co.us/billsummaries>.)*

Starting January 1, 2018, the bill requires medicaid managed care plans and health benefit plans that are required under the federal "Patient Protection and Affordable Care Act" to provide contraceptive coverage as a preventive health service to cover, at no cost to the woman covered by the plan:

!     All FDA-approved contraceptive drugs, devices, and other

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

HOUSE  
Amended 2nd Reading  
March 28, 2016

- products for women, including those prescribed by the covered person's health care provider or otherwise authorized under state or federal law;
- ! Voluntary sterilization procedures;
- ! Patient education and counseling on contraception; and
- ! Follow-up services related to the covered contraceptive drugs, devices, products, or procedures, including management of side effects, counseling for continued adherence, and device insertion and removal.

Health insurers and medicaid managed care entities are prohibited from restricting or delaying coverage for contraceptives and must make the coverage available to all persons covered under the health plan or medicaid managed care plan, respectively.

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

2           **SECTION 1. Legislative declaration.** (1) The general assembly  
3 hereby finds and declares that:

4           (a) Colorado has a long history of expanding timely access to birth  
5 control to prevent unintended pregnancy;

6           (b) The federal "Patient Protection and Affordable Care Act",  
7 Pub.L. 111-148, includes a contraceptive coverage guarantee as part of  
8 a broader requirement for health insurance carriers and plans to cover key  
9 preventive care services without out-of-pocket costs for patients;

10          (c) While contraceptive coverage is required by law, medical  
11 management techniques, such as denials, step therapy, or prior  
12 authorization, in public and private health care coverage can impede  
13 access to the most effective contraceptive methods;

14          (d) The general assembly intends to build on existing state and  
15 federal law to promote gender equity and women's health and to ensure  
16 greater contraceptive coverage equity and timely access to all federal food  
17 and drug administration-approved methods of birth control by:

18           (I) Specifying that all approved birth control methods are covered

1 by medicaid managed care plans and health benefit plans issued in  
2 Colorado; and

3 (II) Preventing carriers and medical managed care entities from  
4 restricting or delaying contraceptive coverage under health benefit plans  
5 and medicaid managed care plans, respectively.

6 **SECTION 2.** In Colorado Revised Statutes, 10-16-104, **amend**  
7 (18) (a) (I) introductory portion; and **add** (18) (b.5) as follows:

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

14 (b.5) (I) FOR PURPOSES OF COVERAGE FOR CONTRACEPTION AS A  
15 PREVENTIVE HEALTH CARE SERVICE FOR WOMEN AS REQUIRED BY THE  
16 FEDERAL ACT, A HEALTH BENEFIT PLAN THAT IS ISSUED, AMENDED, OR  
17 RENEWED ON OR AFTER JANUARY 1, 2018, SHALL PROVIDE COVERAGE FOR  
18 THE FOLLOWING SERVICES AND CONTRACEPTIVE METHODS FOR WOMEN:

19 (A) ALL FDA-APPROVED CONTRACEPTIVE DRUGS, DEVICES, AND  
20 OTHER PRODUCTS FOR WOMEN, INCLUDING THOSE PRESCRIBED BY THE  
21 COVERED PERSON'S PROVIDER OR OTHERWISE AUTHORIZED UNDER STATE  
22 OR FEDERAL LAW. IF THE FDA HAS APPROVED ONE OR MORE THERAPEUTIC  
23 EQUIVALENTS OF A CONTRACEPTIVE DRUG, DEVICE, OR PRODUCT, THE  
24 HEALTH BENEFIT PLAN MUST COVER EITHER THE ORIGINAL  
25 FDA-APPROVED CONTRACEPTIVE DRUG, DEVICE, OR PRODUCT OR ONE OF  
26 ITS THERAPEUTIC EQUIVALENTS. IF THE COVERED CONTRACEPTIVE DRUG,  
27 DEVICE, OR PRODUCT IS DEEMED MEDICALLY INADVISABLE BY THE

1 COVERED PERSON'S PROVIDER, THE CARRIER SHALL DEFER TO THE  
2 PROVIDER'S DETERMINATION AND JUDGMENT AND PROVIDE COVERAGE  
3 UNDER THE PLAN FOR AN ALTERNATE PRESCRIBED THERAPEUTICALLY  
4 EQUIVALENT CONTRACEPTIVE DRUG, DEVICE, OR PRODUCT.

5 (B) VOLUNTARY STERILIZATION PROCEDURES;  
6 (C) PATIENT EDUCATION AND COUNSELING ON CONTRACEPTION;  
7 AND

8 (D) FOLLOW-UP SERVICES RELATED TO THE CONTRACEPTIVE  
9 DRUGS, DEVICES, PRODUCTS, OR PROCEDURES COVERED UNDER THIS  
10 PARAGRAPH (b.5), INCLUDING MANAGEMENT OF SIDE EFFECTS,  
11 COUNSELING FOR CONTINUED ADHERENCE, AND DEVICE INSERTION AND  
12 REMOVAL.

13 (II) EXCEPT AS OTHERWISE AUTHORIZED UNDER THIS PARAGRAPH  
14 (b.5), A CARRIER SHALL NOT IMPOSE ANY RESTRICTIONS OR DELAYS ON  
15 THE CONTRACEPTIVE COVERAGE REQUIRED BY THIS PARAGRAPH (b.5).

16 (III) A CARRIER SHALL MAKE THE COVERAGE REQUIRED BY THIS  
17 PARAGRAPH (b.5) AVAILABLE TO ALL COVERED PERSONS UNDER THE  
18 HEALTH BENEFIT PLAN, INCLUDING DEPENDENTS AND CHILDREN COVERED  
19 UNDER DEPENDENT COVERAGE IN ACCORDANCE WITH SECTION  
20 10-16-104.3.

21 (IV) NOTHING IN THIS PARAGRAPH (b.5):

22 (A) EXCLUDES COVERAGE FOR CONTRACEPTIVE SUPPLIES AS  
23 PRESCRIBED BY A PROVIDER ACTING WITHIN HIS OR HER SCOPE OF  
24 PRACTICE FOR REASONS OTHER THAN CONTRACEPTIVE PURPOSES, SUCH AS  
25 DECREASING THE RISK OF OVARIAN CANCER OR ELIMINATING SYMPTOMS  
26 OF MENOPAUSE, OR FOR CONTRACEPTION THAT IS NECESSARY TO  
27 PRESERVE THE LIFE OR HEALTH OF THE COVERED PERSON;

4 (C) REQUIRES AN INDIVIDUAL OR GROUP HEALTH BENEFIT PLAN TO  
5 COVER EXPERIMENTAL OR INVESTIGATIONAL TREATMENTS, EXCEPT AS  
6 MAY BE REQUIRED UNDER SUBSECTION (20) OF THIS SECTION.

7                   **SECTION 3.** In Colorado Revised Statutes, 10-16-102, add  
8                   (27.5) as follows:

9                   **10-16-102. Definitions - repeal.** As used in this article, unless the  
10                   context otherwise requires:

11 (27.5) "FDA" MEANS THE FEDERAL FOOD AND DRUG  
12 ADMINISTRATION.

13                   **SECTION 4.** In Colorado Revised Statutes, 25.5-5-406, add (1)  
14                   (h) as follows:

## 15 25.5-5-406. Required features of managed care system.

16 (1) **General features.** All medicaid managed care programs shall contain  
17 the following general features, in addition to others that the state  
18 department and the state board consider necessary for the effective and  
19 cost-efficient operation of those programs:

20 (h) **Contraceptives coverage.** (I) ALL MCEs SHALL PROVIDE  
21 COVERAGE FOR THE TOTAL COST OF THE FOLLOWING SERVICES AND  
22 CONTRACEPTIVE METHODS FOR WOMEN, AT NO COST TO THE RECIPIENT:

23 (A) ALL FDA-APPROVED CONTRACEPTIVE DRUGS, DEVICES, AND  
24 OTHER PRODUCTS FOR WOMEN, INCLUDING THOSE PRESCRIBED BY THE  
25 RECIPIENT'S PROVIDER OR OTHERWISE AUTHORIZED UNDER STATE OR  
26 FEDERAL LAW. IF THE FDA HAS APPROVED ONE OR MORE THERAPEUTIC  
27 EQUIVALENTS OF A CONTRACEPTIVE DRUG, DEVICE, OR PRODUCT, THE

1       MCE MUST COVER EITHER THE ORIGINAL FDA-APPROVED  
2       CONTRACEPTIVE DRUG, DEVICE, OR PRODUCT OR ONE OF ITS THERAPEUTIC  
3       EQUIVALENTS. IF THE COVERED CONTRACEPTIVE DRUG, DEVICE, OR  
4       PRODUCT IS DEEMED MEDICALLY INADVISABLE BY THE RECIPIENT'S  
5       PROVIDER, THE MCE SHALL DEFER TO THE PROVIDER'S DETERMINATION  
6       AND JUDGMENT AND PROVIDE COVERAGE UNDER THE PLAN FOR AN  
7       ALTERNATE PRESCRIBED THERAPEUTICALLY EQUIVALENT CONTRACEPTIVE  
8       DRUG, DEVICE, OR PRODUCT.

9               (B) VOLUNTARY STERILIZATION PROCEDURES;  
10               (C) PATIENT EDUCATION AND COUNSELING ON CONTRACEPTION;

11       AND

12               (D) FOLLOW-UP SERVICES RELATED TO THE CONTRACEPTIVE  
13       DRUGS, DEVICES, PRODUCTS, OR PROCEDURES COVERED UNDER THIS  
14       PARAGRAPH (h), INCLUDING MANAGEMENT OF SIDE EFFECTS, COUNSELING  
15       FOR CONTINUED ADHERENCE, AND DEVICE INSERTION AND REMOVAL.

16               (II) EXCEPT AS OTHERWISE AUTHORIZED UNDER THIS PARAGRAPH  
17       (h), AN MCE SHALL NOT IMPOSE ANY RESTRICTIONS OR DELAYS ON THE  
18       CONTRACEPTIVE COVERAGE REQUIRED BY THIS PARAGRAPH (h).

19               (III) AN MCE SHALL MAKE THE COVERAGE REQUIRED BY THIS  
20       PARAGRAPH (h) AVAILABLE TO ALL RECIPIENTS COVERED BY THE MCE,  
21       INCLUDING DEPENDENTS COVERED BY THE MCE.

22               (IV) NOTHING IN THIS PARAGRAPH (h):

23               (A) EXCLUDES COVERAGE FOR CONTRACEPTIVE SUPPLIES AS  
24       PRESCRIBED BY A PROVIDER ACTING WITHIN HIS OR HER SCOPE OF  
25       PRACTICE FOR REASONS OTHER THAN CONTRACEPTIVE PURPOSES, SUCH AS  
26       DECREASING THE RISK OF OVARIAN CANCER OR ELIMINATING SYMPTOMS  
27       OF MENOPAUSE, OR FOR CONTRACEPTION THAT IS NECESSARY TO

1 PRESERVE THE LIFE OR HEALTH OF THE RECIPIENT;

2 (B) RESTRICTS THE STATE DEPARTMENT'S AUTHORITY TO ENSURE  
3 COMPLIANCE WITH THIS ARTICLE WHEN AN MCE PROVIDES COVERAGE FOR  
4 CONTRACEPTIVE DRUGS, DEVICES, OR PRODUCTS; OR

5 (C) REQUIRES AN MCE TO COVER EXPERIMENTAL OR  
6 INVESTIGATIONAL TREATMENTS, EXCEPT AS MAY BE REQUIRED UNDER  
7 THIS ARTICLE.

8 **SECTION 5.** In Colorado Revised Statutes, 25.5-5-403, **add** (2.3)  
9 as follows:

10 **25.5-5-403. Definitions.** As used in this part 4, unless the context  
11 otherwise requires:

12 (2.3) "FDA" MEANS THE FEDERAL FOOD AND DRUG  
13 ADMINISTRATION.

14 **SECTION 6. Act subject to petition - effective date -**  
15 **applicability.** (1) This act takes effect January 1, 2018; except that, if a  
16 referendum petition is filed pursuant to section 1 (3) of article V of the  
17 state constitution against this act or an item, section, or part of this act  
18 within the ninety-day period after final adjournment of the general  
19 assembly, then the act, item, section, or part will not take effect unless  
20 approved by the people at the general election to be held in November  
21 2016 and, in such case, will take effect on January 1, 2018, or on the date  
22 of the official declaration of the vote thereon by the governor, whichever  
23 is later.

24 (2) Sections 2 and 3 of this act apply to health benefit plans  
25 issued, amended, or renewed on or after the applicable effective date of  
26 this act.