

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

INTRODUCED

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.**

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.

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.

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, **add** (18)
7 (b.5) as follows:

8 **10-16-104. Mandatory coverage provisions - definitions -**
9 **rules. (18) Preventive health care services. (b.5) (I) FOR PURPOSES OF**
10 **COVERAGE FOR CONTRACEPTION AS A PREVENTIVE HEALTH CARE SERVICE**
11 **FOR WOMEN AS REQUIRED BY THE FEDERAL ACT, A HEALTH BENEFIT PLAN**
12 **THAT IS ISSUED, AMENDED, OR RENEWED ON OR AFTER JANUARY 1, 2018,**
13 **SHALL PROVIDE COVERAGE FOR THE FOLLOWING SERVICES AND**
14 **CONTRACEPTIVE METHODS FOR WOMEN:**

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

1 (B) VOLUNTARY STERILIZATION PROCEDURES;

2 (C) PATIENT EDUCATION AND COUNSELING ON CONTRACEPTION;

3 AND

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

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

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

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

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

24 (B) RESTRICTS THE COMMISSIONER'S AUTHORITY TO ENSURE
25 COMPLIANCE WITH THIS ARTICLE WHEN A HEALTH BENEFIT PLAN PROVIDES
26 COVERAGE FOR CONTRACEPTIVE DRUGS, DEVICES, OR PRODUCTS; OR

27 (C) REQUIRES AN INDIVIDUAL OR GROUP HEALTH BENEFIT PLAN TO

1 COVER EXPERIMENTAL OR INVESTIGATIONAL TREATMENTS, EXCEPT AS
2 MAY BE REQUIRED UNDER SUBSECTION (20) OF THIS SECTION.

3 **SECTION 3.** In Colorado Revised Statutes, 10-16-102, **add**
4 (27.5) as follows:

5 **10-16-102. Definitions - repeal.** As used in this article, unless the
6 context otherwise requires:

7 (27.5) "FDA" MEANS THE FEDERAL FOOD AND DRUG
8 ADMINISTRATION.

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

11 **25.5-5-406. Required features of managed care system.**

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

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

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

1 PROVIDER, THE MCE SHALL DEFER TO THE PROVIDER'S DETERMINATION
2 AND JUDGMENT AND PROVIDE COVERAGE UNDER THE PLAN FOR AN
3 ALTERNATE PRESCRIBED THERAPEUTICALLY EQUIVALENT CONTRACEPTIVE
4 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 (h), INCLUDING MANAGEMENT OF SIDE EFFECTS, COUNSELING
11 FOR CONTINUED ADHERENCE, AND DEVICE INSERTION AND REMOVAL.

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

15 (III) AN MCE SHALL MAKE THE COVERAGE REQUIRED BY THIS
16 PARAGRAPH (h) AVAILABLE TO ALL RECIPIENTS COVERED BY THE MCE,
17 INCLUDING DEPENDENTS COVERED BY THE MCE.

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

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

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

1 (C) REQUIRES AN MCE TO COVER EXPERIMENTAL OR
2 INVESTIGATIONAL TREATMENTS, EXCEPT AS MAY BE REQUIRED UNDER
3 THIS ARTICLE.

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

6 **25.5-5-403. Definitions.** As used in this part 4, unless the context
7 otherwise requires:

8 (2.3) "FDA" MEANS THE FEDERAL FOOD AND DRUG
9 ADMINISTRATION.

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

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