

MAINE STATE LEGISLATURE

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Date: 4/10/24 Majority (Filing No. H-958) L.D. 2203

HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1411, L.D. 2203, "An Act to Require Health Insurance Coverage for Federally Approved Nonprescription Oral Hormonal Contraceptives"

Amend the bill by striking out the title and substituting the following:

'An Act to Require Health Insurance Coverage for Federally Approved Nonprescription Oral Hormonal Contraceptives and Nonprescription Emergency Contraceptives'

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 24 MRSA §2332-J, sub-§1, as enacted by PL 1999, c. 341, §1 and affected by §5, is amended to read:

1. Coverage requirements. All individual and group nonprofit hospital and medical services plan policies and contracts and all nonprofit health care plan policies and contracts that provide coverage for prescription drugs or outpatient medical services must provide coverage for all prescription contraceptives, nonprescription oral hormonal contraceptives and nonprescription emergency contraceptives approved by the federal Food and Drug Administration or for outpatient contraceptive services, respectively, to the same extent that coverage is provided for other prescription drugs or outpatient medical services in accordance with the requirements of this section. For purposes of this section, ~~the term~~ "outpatient contraceptive services" means consultations, examinations, procedures and medical services provided on an outpatient basis and related to the use of contraceptive methods to prevent an unintended pregnancy. This section may not be construed to apply to prescription drugs or devices that are designed to terminate a pregnancy.

Sec. 2. 24 MRSA §2332-J, sub-§4, as enacted by PL 2021, c. 609, §1, is amended to read:

4. Coverage of contraceptive supplies. Coverage required under this section must include coverage for contraceptive supplies in accordance with the following requirements.

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1 For purposes of this section, "contraceptive supplies" means all contraceptive drugs,
2 devices and products approved by the federal Food and Drug Administration to prevent an
3 unwanted pregnancy, including nonprescription oral hormonal contraceptives and
4 nonprescription emergency contraceptives.

5 A. Coverage must be provided without any deductible, coinsurance, copayment or
6 other cost-sharing requirement.

7 B. If the federal Food and Drug Administration has approved one or more therapeutic
8 equivalents of a contraceptive supply, an insurer is not required to cover all those
9 therapeutically equivalent versions in accordance with this subsection, as long as at
10 least one is covered without any deductible, coinsurance, copayment or other cost-
11 sharing requirement in accordance with this subsection.

12 C. Coverage must be provided for the furnishing or dispensing of prescribed
13 contraceptive supplies and nonprescription oral hormonal contraceptive supplies
14 intended to last for a 12-month period, which may be furnished or dispensed all at once
15 or over the course of the 12 months at the discretion of the health care provider.

16 D. A prescription is not required to obtain a nonprescription oral hormonal
17 contraceptive or nonprescription emergency contraceptive.

18 E. A nonprofit hospital or medical service organization or nonprofit health care service
19 organization shall establish mechanisms to ensure that an enrollee who seeks coverage
20 for a nonprescription oral hormonal contraceptive or nonprescription emergency
21 contraceptive at a pharmacy has the option either to obtain the nonprescription oral
22 hormonal contraceptive or nonprescription emergency contraceptive at the point of sale
23 without payment of any cost sharing or to make the purchase at the pharmacy through
24 an out-of-pocket payment at the point of sale and submit a claim for reimbursement.
25 The pharmacy may use a standing order to facilitate billing for a nonprescription oral
26 hormonal contraceptive or nonprescription emergency contraceptive in accordance
27 with this paragraph.

28 **Sec. 3. 24 MRSA §2332-J, sub-§5** is enacted to read:

29 **5. Rules.** The superintendent may adopt rules as necessary to implement the
30 requirements of this section, including rules related to mechanisms to ensure coverage for
31 nonprescription oral hormonal contraceptives and nonprescription emergency
32 contraceptives and rules regarding notice to enrollees about how to access coverage for
33 nonprescription oral hormonal contraceptives and nonprescription emergency
34 contraceptives. Rules adopted pursuant to this section are routine technical rules as
35 described in Title 5, chapter 375, subchapter 2-A.

36 **Sec. 4. 24-A MRSA §2756, sub-§1**, as enacted by PL 1999, c. 341, §2 and affected
37 by §5, is amended to read:

38 **1. Coverage requirements.** All individual health policies and contracts, except
39 accidental injury, specified disease, hospital indemnity, Medicare supplement, disability
40 income, long-term care and other limited benefit health insurance policies and contracts,
41 that provide coverage for prescription drugs or outpatient medical services must provide
42 coverage for all prescription contraceptives, nonprescription oral hormonal contraceptives
43 and nonprescription emergency contraceptives approved by the federal Food and Drug
44 Administration or for outpatient contraceptive services, ~~respectively, to the same extent~~

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1 ~~that coverage is provided for other prescription drugs or outpatient medical services in~~
2 accordance with the requirements of this section. For purposes of this section, ~~the term~~
3 "outpatient contraceptive services" means consultations, examinations, procedures and
4 medical services provided on an outpatient basis and related to the use of contraceptive
5 methods to prevent an unintended pregnancy. This section may not be construed to apply
6 to prescription drugs or devices that are designed to terminate a pregnancy.

7 **Sec. 5. 24-A MRSA §2756, sub-§3**, as amended by PL 2021, c. 609, §2, is further
8 amended to read:

9 **3. Coverage of contraceptive supplies.** Coverage required under this section must
10 include coverage for contraceptive supplies in accordance with the following requirements.
11 For purposes of this section, "contraceptive supplies" means all contraceptive drugs,
12 devices and products approved by the federal Food and Drug Administration to prevent an
13 unwanted pregnancy, including nonprescription oral hormonal contraceptives and
14 nonprescription emergency contraceptives.

15 A. Coverage must be provided without any deductible, coinsurance, copayment or
16 other cost-sharing requirement.

17 B. If the federal Food and Drug Administration has approved one or more therapeutic
18 equivalents of a contraceptive supply, an insurer is not required to cover all those
19 therapeutically equivalent versions in accordance with this subsection, as long as at
20 least one is covered without any deductible, coinsurance, copayment or other cost-
21 sharing requirement in accordance with this subsection.

22 D. Coverage must be provided for the furnishing or dispensing of prescribed
23 contraceptive supplies and nonprescription oral hormonal contraceptive supplies
24 intended to last for a 12-month period, which may be furnished or dispensed all at once
25 or over the course of the 12 months at the discretion of the health care provider.

26 E. A prescription is not required to obtain a nonprescription oral hormonal
27 contraceptive or nonprescription emergency contraceptive.

28 F. An insurer shall establish mechanisms to ensure that an enrollee who seeks coverage
29 for a nonprescription oral hormonal contraceptive or nonprescription emergency
30 contraceptive at a pharmacy has the option either to obtain the nonprescription oral
31 hormonal contraceptive or nonprescription emergency contraceptive at the point of sale
32 without payment of any cost sharing or to make the purchase through an out-of-pocket
33 payment at the point of sale and submit a claim for reimbursement to the insurer. The
34 pharmacy may use a standing order to facilitate billing for a nonprescription oral
35 hormonal contraceptive or nonprescription emergency contraceptive in accordance
36 with this paragraph.

37 **Sec. 6. 24-A MRSA §2756, sub-§4** is enacted to read:

38 **4. Rules.** The superintendent may adopt rules as necessary to implement the
39 requirements of this section, including rules related to mechanisms to ensure coverage for
40 nonprescription oral hormonal contraceptives and nonprescription emergency
41 contraceptives and rules regarding notice to enrollees about how to access coverage for
42 nonprescription oral hormonal contraceptives and nonprescription emergency
43 contraceptives. Rules adopted pursuant to this section are routine technical rules as
44 described in Title 5, chapter 375, subchapter 2-A.

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Sec. 7. 24-A MRS §2847-G, sub-§1, as enacted by PL 1999, c. 341, §3 and affected by §5, is amended to read:

1. Coverage requirements. All group insurance policies and contracts, except accidental injury, specified disease, hospital indemnity, Medicare supplement, disability income, long-term care and other limited benefit health insurance policies and contracts that provide coverage for prescription drugs or outpatient medical services must provide coverage for all prescription contraceptives, nonprescription oral hormonal contraceptives and nonprescription emergency contraceptives approved by the federal Food and Drug Administration or for outpatient contraceptive services, ~~respectively, to the same extent that coverage is provided for other prescription drugs or outpatient medical services in accordance with the requirements of this section.~~ For purposes of this section, the term "outpatient contraceptive services" means consultations, examinations, procedures and medical services provided on an outpatient basis and related to the use of contraceptive methods to prevent an unintended pregnancy. This section may not be construed to apply to prescription drugs or devices that are designed to terminate a pregnancy.

Sec. 8. 24-A MRS §2847-G, sub-§4, as amended by PL 2021, c. 609, §3, is further amended to read:

4. Coverage of contraceptive supplies. Coverage required under this section must include coverage for contraceptive supplies in accordance with the following requirements. For purposes of this section, "contraceptive supplies" means all contraceptive drugs, devices and products approved by the federal Food and Drug Administration to prevent an unwanted pregnancy, including nonprescription oral hormonal contraceptives and nonprescription emergency contraceptives.

A. Coverage must be provided without any deductible, coinsurance, copayment or other cost-sharing requirement.

B. If the federal Food and Drug Administration has approved one or more therapeutic equivalents of a contraceptive supply, an insurer is not required to cover all those therapeutically equivalent versions in accordance with this subsection, as long as at least one is covered without any deductible, coinsurance, copayment or other cost-sharing requirement in accordance with this subsection.

D. Coverage must be provided for the furnishing or dispensing of prescribed contraceptive supplies and nonprescription oral hormonal contraceptive supplies intended to last for a 12-month period, which may be furnished or dispensed all at once or over the course of the 12 months at the discretion of the health care provider.

E. A prescription is not required to obtain a nonprescription oral hormonal contraceptive or nonprescription emergency contraceptive.

F. An insurer shall establish mechanisms to ensure that an enrollee who seeks coverage for a nonprescription oral hormonal contraceptive or nonprescription emergency contraceptive at a pharmacy has the option either to obtain the nonprescription oral hormonal contraceptive or nonprescription emergency contraceptive at the point of sale without payment of any cost sharing or to make the purchase at the pharmacy through an out-of-pocket payment at the point of sale and submit a claim for reimbursement to the insurer. The pharmacy may use a standing order to facilitate billing for a

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1 nonprescription oral hormonal contraceptive or nonprescription emergency
2 contraceptive in accordance with this paragraph.

3 **Sec. 9. 24-A MRSA §2847-G, sub-§5** is enacted to read:

4 **5. Rules.** The superintendent may adopt rules as necessary to implement the
5 requirements of this section, including rules related to mechanisms to ensure coverage for
6 nonprescription oral hormonal contraceptives and nonprescription emergency
7 contraceptives and rules regarding notice to enrollees about how to access coverage for
8 nonprescription oral hormonal contraceptives and nonprescription emergency
9 contraceptives. Rules adopted pursuant to this section are routine technical rules as
10 described in Title 5, chapter 375, subchapter 2-A.

11 **Sec. 10. 24-A MRSA §4247, sub-§1**, as reallocated by RR 1999, c. 1, §37, is
12 amended to read:

13 **1. Coverage requirements.** All health maintenance organization individual and
14 group health contracts that provide coverage for prescription drugs or outpatient medical
15 services must provide coverage for all prescription contraceptives, nonprescription oral
16 hormonal contraceptives and nonprescription emergency contraceptives approved by the
17 federal Food and Drug Administration or for outpatient contraceptive services;
18 ~~respectively, to the same extent that coverage is provided for other prescription drugs or~~
19 ~~outpatient medical services in accordance with the requirements of this section.~~ For
20 purposes of this section, the term "outpatient contraceptive services" means consultations,
21 examinations, procedures and medical services provided on an outpatient basis and related
22 to the use of contraceptive methods to prevent an unintended pregnancy. This section may
23 not be construed to apply to prescription drugs or devices that are designed to terminate a
24 pregnancy.

25 **Sec. 11. 24-A MRSA §4247, sub-§4**, as amended by PL 2021, c. 609, §4, is further
26 amended to read:

27 **4. Coverage of contraceptive supplies.** Coverage required under this section must
28 include coverage for contraceptive supplies in accordance with the following requirements.
29 For purposes of this section, "contraceptive supplies" means all contraceptive drugs,
30 devices and products approved by the federal Food and Drug Administration to prevent an
31 unwanted pregnancy, including nonprescription oral hormonal contraceptives and
32 nonprescription emergency contraceptives.

33 A. Coverage must be provided without any deductible, coinsurance, copayment or
34 other cost-sharing requirement.

35 B. If the federal Food and Drug Administration has approved one or more therapeutic
36 equivalents of a contraceptive supply, a health maintenance organization is not required
37 to cover all those therapeutically equivalent versions in accordance with this
38 subsection, as long as at least one is covered without any deductible, coinsurance,
39 copayment or other cost-sharing requirement in accordance with this subsection.

40 D. Coverage must be provided for the furnishing or dispensing of prescribed
41 contraceptive supplies and nonprescription oral hormonal contraceptive supplies
42 intended to last for a 12-month period, which may be furnished or dispensed all at once
43 or over the course of the 12 months at the discretion of the health care provider.

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1 E. A prescription is not required to obtain a nonprescription oral hormonal
2 contraceptive or nonprescription emergency contraceptive.

3 F. A health maintenance organization shall establish mechanisms to ensure that an
4 enrollee who seeks coverage for a nonprescription oral hormonal contraceptive or
5 nonprescription emergency contraceptive at a pharmacy has the option either to obtain
6 the nonprescription oral hormonal contraceptive or nonprescription emergency
7 contraceptive at the point of sale without payment of any cost sharing or to make the
8 purchase at the pharmacy through an out-of-pocket payment at the point of sale and
9 submit a claim for reimbursement to the health maintenance organization. The
10 pharmacy may use a standing order to facilitate billing for a nonprescription oral
11 hormonal contraceptive or nonprescription emergency contraceptive in accordance
12 with this paragraph.

13 **Sec. 12. 24-A MRSA §4247, sub-§5** is enacted to read:

14 **5. Rules.** The superintendent may adopt rules as necessary to implement the
15 requirements of this section, including rules related to mechanisms to ensure coverage for
16 nonprescription oral hormonal contraceptives and nonprescription emergency
17 contraceptives and rules regarding notice to enrollees about how to access coverage for
18 nonprescription oral hormonal contraceptives and nonprescription emergency
19 contraceptives. Rules adopted pursuant to this section are routine technical rules as
20 described in Title 5, chapter 375, subchapter 2-A.

21 **Sec. 13. 24-A MRSA §4302, sub-§1, ¶A**, as amended by PL 2009, c. 439, Pt. A,
22 §2, is further amended to read:

23 A. Coverage provisions, benefits and any exclusions by category of service, type of
24 provider and, if applicable, by specific service, including but not limited to the
25 following types of services, exclusions and limitations:

- 26 (1) Health care services excluded from coverage;
- 27 (2) Health care services requiring copayments or deductibles paid by enrollees;
- 28 (3) Restrictions on access to a particular provider type;
- 29 (4) Health care services that are or may be provided only by referral; and
- 30 (5) Childhood immunizations as recommended by the United States Department
31 of Health and Human Services, Centers for Disease Control and Prevention and
32 the American Academy of Pediatrics; and
- 33 (6) Coverage requirements for contraceptive supplies and the procedures an
34 enrollee must follow to access coverage for over-the-counter contraceptive
35 supplies and nonprescription contraceptives at a pharmacy without an out-of-
36 pocket cost at the point of sale or by submitting a claim for reimbursement;

37 **Sec. 14. Application.** This Act applies to all policies, contracts and certificates
38 executed, delivered, issued for delivery, continued or renewed in this State on or after
39 January 1, 2025. For purposes of this Act, all contracts are deemed to be renewed no later
40 than the next yearly anniversary of the contract date.

41 **Sec. 15. Department of Professional and Financial Regulation, Bureau of**
42 **Insurance review.** The Department of Professional and Financial Regulation, Bureau of

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Insurance shall monitor compliance of health insurance carriers with the requirements for coverage of nonprescription oral hormonal contraceptives and nonprescription emergency contraceptives set forth in this Act and any rules adopted by the bureau to implement the requirements of this Act, including any complaints or barriers to implementation. The bureau shall also review any federal guidance developed in response to the "Request for Information" regarding a proposed rule to extend the application of the preventive services requirements under Section 2713 of the federal Public Health Service Act to over-the-counter preventive items and services available without a prescription by a health care provider, including contraceptive supplies. No later than March 1, 2026, the bureau shall provide a report to the joint standing committee of the Legislature having jurisdiction over health coverage, insurance and financial services matters with an update on implementation of the requirements of this Act, including recommendations for legislation to improve implementation, and on the status of any proposed federal rules related to coverage of nonprescription oral hormonal contraceptives and nonprescription emergency contraceptives by health insurance carriers. The joint standing committee of the Legislature having jurisdiction over health coverage, insurance and financial services matters may report out legislation based on the report to the Second Regular Session of the 132nd Legislature.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment, which is the majority report of the committee, replaces the bill and changes the title. The amendment expands the requirements in current law for coverage of contraceptives to include nonprescription oral hormonal contraceptives and nonprescription emergency contraceptives approved by the federal Food and Drug Administration. The amendment provides that a prescription is not required for insurance coverage for nonprescription oral hormonal contraceptives and nonprescription emergency contraceptives and requires insurers to establish mechanisms to ensure that an enrollee who purchases a nonprescription oral hormonal contraceptive or nonprescription emergency contraceptive at a pharmacy has the option either to make the purchase pursuant to a standing order issued for billing purposes without a payment required at the point of sale or to make the purchase with a payment at the point of sale and submit a claim for reimbursement to the insurer. The requirements apply beginning January 1, 2025.

The amendment requires health insurance carriers to notify enrollees, at least annually, of the coverage requirements for contraceptive supplies and the procedures an enrollee must follow to access coverage for nonprescription oral hormonal contraceptives and nonprescription emergency contraceptives at a pharmacy without an out-of-pocket cost at the point of sale or by submitting a claim for reimbursement. The amendment also authorizes the Department of Professional and Financial Regulation, Bureau of Insurance to adopt rules to implement the provisions and also requires the bureau to monitor implementation by health insurance carriers and to report to the joint standing committee of the Legislature having jurisdiction over health coverage, insurance and financial services matters no later than March 1, 2026.

FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



131st MAINE LEGISLATURE

LD 2203

LR 3018(02)

An Act to Require Health Insurance Coverage for Federally Approved Nonprescription Oral Hormonal Contraceptives

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-958)
 Committee: Health Coverage, Insurance and Financial Services

Fiscal Note Required: Yes

Fiscal Note

	FY 2023-24	FY 2024-25	Projections FY 2025-26	Projections FY 2026-27
Net Cost (Savings)				
General Fund	\$0	\$0	\$69,758	\$69,758
Highway Fund	\$0	\$0	\$25,745	\$25,745
Appropriations/Allocations				
General Fund	\$0	\$0	\$69,758	\$69,758
Highway Fund	\$0	\$0	\$25,745	\$25,745

Fiscal Detail and Notes

The bill requires the State Employee Health Plan to cover nonprescription oral hormonal contraceptives and nonprescription emergency contraceptives approved by the federal Food and Drug Administration.

The requirements of the bill apply to health plans issued or renewed on or after January 1, 2025. The State Employee Health Plan's first impacted plan year will be fiscal year 2025-26 and is estimated to cost \$154,507 annually thereafter. The costs are split across the General Fund (\$69,758), Highway Funds (\$25,745) and all other funds (\$59,004).