

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

SECOND REGULAR SESSION-2024

Legislative Document

No. 2203

H.P. 1411

House of Representatives, February 1, 2024

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

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Health Coverage, Insurance and Financial Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative ARFORD of Brunswick.
Cosponsored by Senator DAUGHTRY of Cumberland and
Representatives: CLUCHEY of Bowdoinham, LaROCHELLE of Augusta, MILLIKEN of
Blue Hill, PERRY of Calais, SALISBURY of Westbrook, Speaker TALBOT ROSS of
Portland, Senators: BAILEY of York, VITELLI of Sagadahoc.

1 **Be it enacted by the People of the State of Maine as follows:**

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

4 **1. Coverage requirements; prescription contraceptives and outpatient**
5 **contraceptive services.** All individual and group nonprofit hospital and medical services
6 plan policies and contracts and all nonprofit health care plan policies and contracts that
7 provide coverage for prescription drugs or outpatient medical services must provide
8 coverage for all prescription contraceptives approved by the federal Food and Drug
9 Administration or for outpatient contraceptive services, respectively, to the same extent
10 that coverage is provided for other prescription drugs or outpatient medical services. For
11 purposes of this section, ~~the term~~ "outpatient contraceptive services" means consultations,
12 examinations, procedures and medical services provided on an outpatient basis and related
13 to the use of contraceptive methods to prevent an unintended pregnancy. This section may
14 not be construed to apply to prescription drugs or devices that are designed to terminate a
15 pregnancy.

16 **Sec. 2. 24 MRSA §2332-J, sub-§1-A** is enacted to read:

17 **1-A. Coverage requirements; nonprescription oral hormonal contraceptives.** All
18 policies and contracts required to provide coverage for prescription contraceptives under
19 subsection 1 must provide coverage for nonprescription oral hormonal contraceptives
20 approved by the federal Food and Drug Administration to the same extent that coverage is
21 provided for prescription contraceptives pursuant to subsection 1.

22 **Sec. 3. 24 MRSA §2332-J, sub-§4**, as enacted by PL 2021, c. 609, §1, is amended
23 to read:

24 **4. Coverage of contraceptive supplies.** Coverage required under ~~this section~~
25 subsection 1 must include coverage for contraceptive supplies in accordance with the
26 following requirements. For purposes of this ~~section~~ subsection, "contraceptive supplies"
27 means all contraceptive drugs, devices and products approved by the federal Food and Drug
28 Administration to prevent an unwanted pregnancy, except "contraceptive supplies" does
29 not include nonprescription oral hormonal contraceptives.

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

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

37 C. Coverage must be provided for the furnishing or dispensing of prescribed
38 contraceptive supplies intended to last for a 12-month period, which may be furnished
39 or dispensed all at once or over the course of the 12 months at the discretion of the
40 health care provider.

41 **Sec. 4. 24 MRSA §2332-J, sub-§5** is enacted to read:

1 **5. Coverage of nonprescription oral hormonal contraceptives.** Coverage required
2 under subsection 1-A must include coverage for nonprescription oral hormonal
3 contraceptives approved by the federal Food and Drug Administration in accordance with
4 the following requirements.

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 nonprescription oral hormonal contraceptive, an insurer is not required
9 to cover all those therapeutically equivalent versions in accordance with this
10 subsection, as long as at least one is covered without any deductible, coinsurance,
11 copayment or other cost-sharing requirement in accordance with this subsection.

12 C. Coverage must be provided for the furnishing of nonprescription oral hormonal
13 contraceptives intended to last for a 12-month period.

14 A nonprofit hospital or medical service organization or nonprofit health care plan subject
15 to this subsection shall establish mechanisms to ensure that an enrollee who purchases a
16 nonprescription oral hormonal contraceptive has the option either to make the purchase at
17 a pharmacy without a payment required at the point of sale or to make the purchase with a
18 payment at the point of sale and submit a claim for reimbursement to the nonprofit hospital
19 or medical service organization or nonprofit health care plan.

20 **Sec. 5. 24-A MRS §2756, sub-§1**, as enacted by PL 1999, c. 341, §2 and affected
21 by §5, is amended to read:

22 **1. Coverage requirements; prescription contraceptives and outpatient**
23 **contraceptive services.** All individual health policies and contracts, except accidental
24 injury, specified disease, hospital indemnity, Medicare supplement, disability income,
25 long-term care and other limited benefit health insurance policies and contracts, that
26 provide coverage for prescription drugs or outpatient medical services must provide
27 coverage for all prescription contraceptives approved by the federal Food and Drug
28 Administration or for outpatient contraceptive services, respectively, to the same extent
29 that coverage is provided for other prescription drugs or outpatient medical services. For
30 purposes of this section, ~~the term~~ "outpatient contraceptive services" means consultations,
31 examinations, procedures and medical services provided on an outpatient basis and related
32 to the use of contraceptive methods to prevent an unintended pregnancy. This section may
33 not be construed to apply to prescription drugs or devices that are designed to terminate a
34 pregnancy.

35 **Sec. 6. 24-A MRS §2756, sub-§1-A** is enacted to read:

36 **1-A. Coverage requirements; nonprescription oral hormonal contraceptives.** All
37 policies and contracts required to provide coverage for prescription contraceptives under
38 subsection 1 must provide coverage for nonprescription oral hormonal contraceptives
39 approved by the federal Food and Drug Administration to the same extent that coverage is
40 provided for prescription contraceptives pursuant to subsection 1.

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

1 **3. Coverage of contraceptive supplies.** Coverage required under ~~this section~~
2 subsection 1 must include coverage for contraceptive supplies in accordance with the
3 following requirements. For purposes of this ~~section~~ subsection, "contraceptive supplies"
4 means all contraceptive drugs, devices and products approved by the federal Food and Drug
5 Administration to prevent an unwanted pregnancy, except "contraceptive supplies" does
6 not include nonprescription oral hormonal contraceptives.

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

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

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

18 **Sec. 8. 24-A MRSA §2756, sub-§4** is enacted to read:

19 **4. Coverage of nonprescription oral hormonal contraceptives.** Coverage required
20 under subsection 1-A must include coverage for nonprescription oral hormonal
21 contraceptives approved by the federal Food and Drug Administration in accordance with
22 the following requirements.

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

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

30 C. Coverage must be provided for the furnishing of nonprescription oral hormonal
31 contraceptives intended to last for a 12-month period.

32 An insurer subject to this subsection shall establish mechanisms to ensure that an enrollee
33 who purchases a nonprescription oral hormonal contraceptive has the option either to make
34 the purchase at a pharmacy without a payment required at the point of sale or to make the
35 purchase with a payment at the point of sale and submit a claim for reimbursement to the
36 insurer.

37 **Sec. 9. 24-A MRSA §2847-G, sub-§1**, as enacted by PL 1999, c. 341, §3 and
38 affected by §5, is amended to read:

39 **1. Coverage requirements; prescription contraceptives and outpatient**
40 **contraceptive services.** All group insurance policies and contracts, except accidental
41 injury, specified disease, hospital indemnity, Medicare supplement, disability income,
42 long-term care and other limited benefit health insurance policies and contracts that provide
43 coverage for prescription drugs or outpatient medical services must provide coverage for

1 all prescription contraceptives approved by the federal Food and Drug Administration or
2 for outpatient contraceptive services, respectively, to the same extent that coverage is
3 provided for other prescription drugs or outpatient medical services. For purposes of this
4 section, ~~the term~~ "outpatient contraceptive services" means consultations, examinations,
5 procedures and medical services provided on an outpatient basis and related to the use of
6 contraceptive methods to prevent an unintended pregnancy. This section may not be
7 construed to apply to prescription drugs or devices that are designed to terminate a
8 pregnancy.

9 **Sec. 10. 24-A MRSA §2847-G, sub-§1-A** is enacted to read:

10 **1-A. Coverage requirements; nonprescription oral hormonal contraceptives.** All
11 policies and contracts required to provide coverage for prescription contraceptives under
12 subsection 1 must provide coverage for nonprescription oral hormonal contraceptives
13 approved by the federal Food and Drug Administration to the same extent that coverage is
14 provided for prescription contraceptives pursuant to subsection 1.

15 **Sec. 11. 24-A MRSA §2847-G, sub-§4**, as amended by PL 2021, c. 609, §3, is
16 further amended to read:

17 **4. Coverage of contraceptive supplies.** Coverage required under ~~this section~~
18 subsection 1 must include coverage for contraceptive supplies in accordance with the
19 following requirements. For purposes of this ~~section~~ subsection, "contraceptive supplies"
20 means ~~all~~ contraceptive drugs, devices and products approved by the federal Food and Drug
21 Administration to prevent an unwanted pregnancy, except "contraceptive supplies" does
22 not include nonprescription oral hormonal contraceptives.

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

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

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

34 **Sec. 12. 24-A MRSA §2847-G, sub-§5** is enacted to read:

35 **5. Coverage of nonprescription oral hormonal contraceptives.** Coverage required
36 under subsection 1-A must include coverage for nonprescription oral hormonal
37 contraceptives approved by the federal Food and Drug Administration in accordance with
38 the following requirements.

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

41 B. If the federal Food and Drug Administration has approved one or more therapeutic
42 equivalents of a nonprescription oral hormonal contraceptive, an insurer is not required
43 to cover all those therapeutically equivalent versions in accordance with this

1 subsection, as long as at least one is covered without any deductible, coinsurance,
2 copayment or other cost-sharing requirement in accordance with this subsection.

3 C. Coverage must be provided for the furnishing of nonprescription oral hormonal
4 contraceptives intended to last for a 12-month period.

5 An insurer subject to this subsection shall establish mechanisms to ensure that an enrollee
6 who purchases a nonprescription oral hormonal contraceptive has the option either to make
7 the purchase at a pharmacy without a payment required at the point of sale or to make the
8 purchase with a payment at the point of sale and submit a claim for reimbursement to the
9 insurer.

10 **Sec. 13. 24-A MRSA §4247, sub-§1**, as reallocated by RR 1999, c. 1, §37, is
11 amended to read:

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

23 **Sec. 14. 24-A MRSA §4247, sub-§1-A** is enacted to read:

24 **1-A. Coverage requirements; nonprescription oral hormonal contraceptives.** All
25 contracts required to provide coverage for prescription contraceptives under subsection 1
26 must provide coverage for nonprescription oral hormonal contraceptives approved by the
27 federal Food and Drug Administration to the same extent that coverage is provided for
28 prescription contraceptives pursuant to subsection 1.

29 **Sec. 15. 24-A MRSA §4247, sub-§4**, as amended by PL 2021, c. 609, §4, is further
30 amended to read:

31 **4. Coverage of contraceptive supplies.** Coverage required under ~~this section~~
32 subsection 1 must include coverage for contraceptive supplies in accordance with the
33 following requirements. For purposes of this ~~section~~ subsection, "contraceptive supplies"
34 means ~~all~~ contraceptive drugs, devices and products approved by the federal Food and Drug
35 Administration to prevent an unwanted pregnancy, except "contraceptive supplies" does
36 not include nonprescription oral hormonal contraceptives.

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

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

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

5 **Sec. 16. 24-A MRSA §4247, sub-§5** is enacted to read:

6 **5. Coverage of nonprescription oral hormonal contraceptives.** Coverage required
7 under subsection 1-A must include coverage for nonprescription oral hormonal
8 contraceptives approved by the federal Food and Drug Administration in accordance with
9 the following requirements.

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

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

17 C. Coverage must be provided for the furnishing of nonprescription oral hormonal
18 contraceptives intended to last for a 12-month period.

19 A health maintenance organization subject to this subsection shall establish mechanisms to
20 ensure that an enrollee who purchases a nonprescription oral hormonal contraceptive has
21 the option either to make the purchase at a pharmacy without a payment required at the
22 point of sale or to make the purchase with a payment at the point of sale and submit a claim
23 for reimbursement to the health maintenance organization.

24 **Sec. 17. Application.** This Act applies to all policies, contracts and certificates
25 executed, delivered, issued for delivery, continued or renewed in this State on or after
26 January 1, 2025. For purposes of this Act, all contracts are deemed to be renewed no later
27 than the next yearly anniversary of the contract date.

28 SUMMARY

29 This bill requires individual and group health insurance policies and contracts that are
30 currently required to provide coverage for prescription contraceptives to provide coverage
31 for nonprescription oral hormonal contraceptives approved by the federal Food and Drug
32 Administration to the same extent that coverage is provided for prescription contraceptives.
33 It requires insurers to establish mechanisms to ensure that an enrollee who purchases a
34 nonprescription oral hormonal contraceptive has the option either to make the purchase at
35 a pharmacy without a payment required at the point of sale or to make the purchase with a
36 payment at the point of sale and submit a claim for reimbursement to the insurer. The
37 requirements apply beginning January 1, 2025.