

S3804

SPONSOR'S STATEMENT: (Begins on page 12 of introduced bill) Yes

COMMITTEE STATEMENT:

ASSEMBLY: No

SENATE: Yes Commerce

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: Yes 6/27/2019
12/16/2019

LEGISLATIVE FISCAL ESTIMATE: Yes 11/26/2019
1/14/2020

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"Murphy signs legislation protecting ACA in NJ."
NJBIZ (New Brunswick, NJ), January 16, 2020.

"NJ passes laws to preserve 'Obamacare' amid court fight."
Associated Press State Wire: New Jersey (NJ), January 17, 2020.

"Gov. signs bills protecting Obamacare benefits," The Times, January 21, 2020

Rwh/cl

P.L. 2019, CHAPTER 361, *approved January 16, 2020*
Assembly, No. 5508 (*Second Reprint*)

1 AN ACT concerning health benefits coverage for contraceptives and
2 amending P.L.2005, c.251.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 1 of P.L.2005, c.251 (C.17:48-6ee) is amended to
8 read as follows:

9 1. a. A hospital service corporation that provides hospital or
10 medical expense benefits ¹**【for expenses incurred in the purchase of**
11 **outpatient prescription drugs under a contract】**¹ shall provide
12 coverage under every ¹**【such】**¹ contract delivered, issued, executed
13 or renewed in this State or approved for issuance or renewal in this
14 State by the Commissioner of Banking and Insurance, on or after
15 the effective date of this act, for expenses incurred in the purchase
16 of prescription female contraceptives ¹, and the following services,
17 drugs, devices, products, and procedures ²on an in-network basis²:

18 (1) Any contraceptive drug, device or product approved by the
19 United States Food and Drug Administration, which coverage shall
20 be subject to all of the following conditions:

21 (a) If there is a therapeutic equivalent of a contraceptive drug,
22 device or product approved by the United States Food and Drug
23 Administration, coverage shall be provided for either the requested
24 contraceptive drug, device or product or for one or more therapeutic
25 equivalents of the requested drug, device or product.

26 (b) Coverage shall be provided without a prescription for all
27 contraceptive drugs available for over-the-counter sale that are
28 approved by the United States Food and Drug Administration.

29 (c) Coverage shall be provided without any infringement upon a
30 subscriber's choice of contraception and medical necessity shall be
31 determined by the provider for covered contraceptive drugs, devices
32 or other products approved by the United States Food and Drug
33 Administration.

34 (2) Voluntary male and female sterilization.

35 (3) Patient education and counseling on contraception.

36 (4) Services related to the administration and monitoring of
37 drugs, devices, products and services required under this section,
38 including but not limited to:

39 (a) Management of side effects;

40 (b) Counseling for continued adherence to a prescribed regimen;

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted June 13, 2019.

²Senate floor amendments adopted December 16, 2019.

1 (c) Device insertion and removal;

2 (d) Provision of alternative contraceptive drugs, devices or
3 products deemed medically appropriate in the judgment of the
4 subscriber's health care provider; and

5 (e) Diagnosis and treatment services provided pursuant to, or as
6 a follow-up to, a service required under this section¹.

7 ¹**【For the purposes of this section, "prescription female**
8 **contraceptives" means any drug or device used for contraception**
9 **【by a female】, which is approved by the federal Food and Drug**
10 **Administration for that purpose【, that can only be purchased in this**
11 **State with a prescription written by a health care professional**
12 **licensed or authorized to write prescriptions, and includes, but is**
13 **not limited to, birth control pills and diaphragms】.】**

14 **b.**¹ The coverage provided shall include prescriptions for
15 dispensing contraceptives for:

16 **【a.】** (1) a three-month period for the first dispensing of the
17 contraceptive; and

18 **【b.】** (2) a six-month period for any subsequent dispensing of
19 the same contraceptive, regardless of whether coverage under the
20 contract was in effect at the time of the first dispensing, except that
21 an entity subject to this section may provide coverage for a supply
22 of contraceptives that is for less than a six-month period, if a six-
23 month period would extend beyond the term of the contract.

24 **【A religious employer may request, and a hospital service**
25 **corporation shall grant, an exclusion under the contract for the**
26 **coverage required by this section if the required coverage conflicts**
27 **with the religious employer's bona fide religious beliefs and**
28 **practices. A religious employer that obtains such an exclusion shall**
29 **provide written notice thereof to prospective subscribers and**
30 **subscribers. The provisions of this section shall not be construed as**
31 **authorizing a hospital service corporation to exclude coverage for**
32 **prescription drugs that are prescribed for reasons other than**
33 **contraceptive purposes or for prescription female contraceptives**
34 **that are necessary to preserve the life or health of a subscriber. For**
35 **the purposes of this section, "religious employer" means an**
36 **employer that is a church, convention or association of churches or**
37 **an elementary or secondary school that is controlled, operated or**
38 **principally supported by a church or by a convention or association**
39 **of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that**
40 **qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).】**

41 ¹**【b.】** ¹**c.**² ²**【The】** (1) Except as provided in paragraph (2) of
42 this subsection, the² benefits shall be provided to the same extent as
43 for any other ¹**【outpatient prescription】** service,¹ drug ¹, device,
44 product, or procedure¹ under the contract, except no deductible,
45 coinsurance, copayment, or any other cost-sharing requirement on
46 the coverage shall be imposed.

1 ²(2) In the case of a high deductible health plan, benefits for
2 male sterilization or male contraceptives shall be provided at the
3 lowest deductible and other cost-sharing permitted for a high
4 deductible health plan under section 223(c)(2)(A) of the Internal
5 Revenue Code (26 U.S.C. s.223).²

6 ¹**[c.] d.**¹ This section shall apply to those contracts in which
7 the hospital service corporation has reserved the right to change the
8 premium.

9 ¹e. Nothing in this section shall limit coverage of any additional
10 preventive service for women, as identified or recommended by the
11 United States Preventive Services Task Force or the Health
12 Resources and Services Administration of the United States
13 Department of Health and Human Services pursuant to the
14 provisions of 42 U.S.C. 300gg-13.¹

15

16 2. Section 2 of P.L.2005, c.251 (C.17:48A-7bb) is amended to
17 read as follows:

18 2. a. A medical service corporation that provides hospital or
19 medical expense benefits ¹**[for expenses incurred in the purchase of**
20 **outpatient prescription drugs under a contract]**¹ shall provide
21 coverage under every ¹**[such]**¹ contract delivered, issued, executed
22 or renewed in this State or approved for issuance or renewal in this
23 State by the Commissioner of Banking and Insurance, on or after
24 the effective date of this act, for expenses incurred in the purchase
25 of prescription female contraceptives¹, and the following services,
26 drugs, devices, products, and procedures² on an in-network basis²:

27 (1) Any contraceptive drug, device or product approved by the
28 United States Food and Drug Administration, which coverage shall
29 be subject to all of the following conditions:

30 (a) If there is a therapeutic equivalent of a contraceptive drug,
31 device or product approved by the United States Food and Drug
32 Administration, coverage shall be provided for either the requested
33 contraceptive drug, device or product or for one or more therapeutic
34 equivalents of the requested drug, device or product.

35 (b) Coverage shall be provided without a prescription for all
36 contraceptive drugs available for over-the-counter sale that are
37 approved by the United States Food and Drug Administration.

38 (c) Coverage shall be provided without any infringement upon a
39 subscriber's choice of contraception and medical necessity shall be
40 determined by the provider for covered contraceptive drugs, devices
41 or other products approved by the United States Food and Drug
42 Administration.

43 (2) Voluntary male and female sterilization.

44 (3) Patient education and counseling on contraception.

45 (4) Services related to the administration and monitoring of
46 drugs, devices, products and services required under this section,
47 including but not limited to:

- 1 (a) Management of side effects;
2 (b) Counseling for continued adherence to a prescribed regimen;
3 (c) Device insertion and removal;
4 (d) Provision of alternative contraceptive drugs, devices or
5 products deemed medically appropriate in the judgment of the
6 subscriber's health care provider; and
7 (e) Diagnosis and treatment services provided pursuant to, or as
8 a follow-up to, a service required under this section¹.

9 ¹For the purposes of this section, "prescription female
10 contraceptives" means any drug or device used for contraception
11 **by a female**, which is approved by the federal Food and Drug
12 Administration for that purpose, that can only be purchased in this
13 State with a prescription written by a health care professional
14 licensed or authorized to write prescriptions, and includes, but is
15 not limited to, birth control pills and diaphragms**.**

16 b.¹ The coverage provided shall include prescriptions for
17 dispensing contraceptives for:

18 **[a.]** (1) a three-month period for the first dispensing of the
19 contraceptive; and

20 **[b.]** (2) a six-month period for any subsequent dispensing of
21 the same contraceptive, regardless of whether coverage under the
22 contract was in effect at the time of the first dispensing, except that
23 an entity subject to this section may provide coverage for a supply
24 of contraceptives that is for less than a six-month period, if a six-
25 month period would extend beyond the term of the contract.

26 **[A** religious employer may request, and a medical service
27 corporation shall grant, an exclusion under the contract for the
28 coverage required by this section if the required coverage conflicts
29 with the religious employer's bona fide religious beliefs and
30 practices. A religious employer that obtains such an exclusion shall
31 provide written notice thereof to prospective subscribers and
32 subscribers. The provisions of this section shall not be construed as
33 authorizing a medical service corporation to exclude coverage for
34 prescription drugs that are prescribed for reasons other than
35 contraceptive purposes or for prescription female contraceptives
36 that are necessary to preserve the life or health of a subscriber. For
37 the purposes of this section, "religious employer" means an
38 employer that is a church, convention or association of churches or
39 an elementary or secondary school that is controlled, operated or
40 principally supported by a church or by a convention or association
41 of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that
42 qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).**]**

43 ¹**[b.]** c.¹ ²**[The]** (1) Except as provided in paragraph (2) of
44 this subsection, the² benefits shall be provided to the same extent as
45 for any other ¹**[outpatient prescription]** service,¹ drug ¹, device,
46 product, or procedure¹ under the contract, except no deductible,

1 coinsurance, copayment, or any other cost-sharing requirement on
2 the coverage shall be imposed.

3 ²(2) In the case of a high deductible health plan, benefits for
4 male sterilization or male contraceptives shall be provided at the
5 lowest deductible and other cost-sharing permitted for a high
6 deductible health plan under section 223(c)(2)(A) of the Internal
7 Revenue Code (26 U.S.C. s.223).²

8 ¹**[c.] d.**¹ This section shall apply to those contracts in which
9 the medical service corporation has reserved the right to change the
10 premium.

11 ¹e. Nothing in this section shall limit coverage of any additional
12 preventive service for women, as identified or recommended by the
13 United States Preventive Services Task Force or the Health
14 Resources and Services Administration of the United States
15 Department of Health and Human Services pursuant to the
16 provisions of 42 U.S.C. 300gg-13.¹

17 (cf: P.L.2017, c.241, s.2)

18

19 3. Section 3 of P.L.2005, c.251 (C.17:48E-35.29) is amended
20 to read as follows:

21 3. a. A health service corporation that provides hospital or
22 medical expense benefits ¹**[for expenses incurred in the purchase of**
23 **outpatient prescription drugs under a contract]**¹ shall provide
24 coverage under every ¹**[such]**¹ contract delivered, issued, executed
25 or renewed in this State or approved for issuance or renewal in this
26 State by the Commissioner of Banking and Insurance, on or after
27 the effective date of this act, for expenses incurred in the purchase
28 of prescription female contraceptives¹, and the following services,
29 drugs, devices, products, and procedures² on an in-network basis²:

30 (1) Any contraceptive drug, device or product approved by the
31 United States Food and Drug Administration, which coverage shall
32 be subject to all of the following conditions:

33 (a) If there is a therapeutic equivalent of a contraceptive drug,
34 device or product approved by the United States Food and Drug
35 Administration, coverage shall be provided for either the requested
36 contraceptive drug, device or product or for one or more therapeutic
37 equivalents of the requested drug, device or product.

38 (b) Coverage shall be provided without a prescription for all
39 contraceptive drugs available for over-the-counter sale that are
40 approved by the United States Food and Drug Administration.

41 (c) Coverage shall be provided without any infringement upon a
42 subscriber's choice of contraception and medical necessity shall be
43 determined by the provider for covered contraceptive drugs, devices
44 or other products approved by the United States Food and Drug
45 Administration.

46 (2) Voluntary male and female sterilization.

47 (3) Patient education and counseling on contraception.

1 (4) Services related to the administration and monitoring of
2 drugs, devices, products and services required under this section,
3 including but not limited to:

4 (a) Management of side effects;

5 (b) Counseling for continued adherence to a prescribed regimen;

6 (c) Device insertion and removal;

7 (d) Provision of alternative contraceptive drugs, devices or
8 products deemed medically appropriate in the judgment of the
9 subscriber's health care provider; and

10 (e) Diagnosis and treatment services provided pursuant to, or as
11 a follow-up to, a service required under this section¹.

12 ¹**【For the purposes of this section, "prescription female**
13 **contraceptives" means any drug or device used for contraception**
14 **【by a female】, which is approved by the federal Food and Drug**
15 **Administration for that purpose【, that can only be purchased in this**
16 **State with a prescription written by a health care professional**
17 **licensed or authorized to write prescriptions, and includes, but is**
18 **not limited to, birth control pills and diaphragms】.】**

19 **b.**¹ The coverage provided shall include prescriptions for
20 dispensing contraceptives for:

21 **【a.】** (1) a three-month period for the first dispensing of the
22 contraceptive; and

23 **【b.】** (2) a six-month period for any subsequent dispensing of
24 the same contraceptive, regardless of whether coverage under the
25 contract was in effect at the time of the first dispensing, except that
26 an entity subject to this section may provide coverage for a supply
27 of contraceptives that is for less than a six-month period, if a six-
28 month period would extend beyond the term of the contract.

29 **【A religious employer may request, and a health service**
30 **corporation shall grant, an exclusion under the contract for the**
31 **coverage required by this section if the required coverage conflicts**
32 **with the religious employer's bona fide religious beliefs and**
33 **practices. A religious employer that obtains such an exclusion shall**
34 **provide written notice thereof to prospective subscribers and**
35 **subscribers. The provisions of this section shall not be construed as**
36 **authorizing a health service corporation to exclude coverage for**
37 **prescription drugs that are prescribed for reasons other than**
38 **contraceptive purposes or for prescription female contraceptives**
39 **that are necessary to preserve the life or health of a subscriber. For**
40 **the purposes of this section, "religious employer" means an**
41 **employer that is a church, convention or association of churches or**
42 **an elementary or secondary school that is controlled, operated or**
43 **principally supported by a church or by a convention or association**
44 **of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that**
45 **qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).】**

46 ¹**【b.】** c.¹ ²**【The】** (1) Except as provided in paragraph (2) of
47 this subsection, the² benefits shall be provided to the same extent as

1 for any other ¹**【outpatient prescription】** service,¹ drug ¹, device,
2 product, or procedure¹ under the contract, except no deductible,
3 coinsurance, copayment, or any other cost-sharing requirement on
4 the coverage shall be imposed.

5 ²(2) In the case of a high deductible health plan, benefits for
6 male sterilization or male contraceptives shall be provided at the
7 lowest deductible and other cost-sharing permitted for a high
8 deductible health plan under section 223(c)(2)(A) of the Internal
9 Revenue Code (26 U.S.C. s.223).²

10 ¹**【c.】** d.¹ This section shall apply to those contracts in which
11 the health service corporation has reserved the right to change the
12 premium.

13 ¹e. Nothing in this section shall limit coverage of any additional
14 preventive service for women, as identified or recommended by the
15 United States Preventive Services Task Force or the Health
16 Resources and Services Administration of the United States
17 Department of Health and Human Services pursuant to the
18 provisions of 42 U.S.C. 300gg-13.¹

19 (cf: P.L.2017, c.241, s.3)

20

21 4. Section 4 of P.L.2005, c.251 (C.17B:27-46.1ee) is amended
22 to read as follows:

23 4. a. A group health insurer that provides hospital or medical
24 expense benefits ¹**【for expenses incurred in the purchase of**
25 outpatient prescription drugs under a policy¹ shall provide
26 coverage under every ¹**【such】** policy delivered, issued, executed or
27 renewed in this State or approved for issuance or renewal in this
28 State by the Commissioner of Banking and Insurance, on or after
29 the effective date of this act, for expenses incurred in the purchase
30 of prescription female contraceptives¹, and the following services,
31 drugs, devices, products, and procedures ²on an in-network basis²:

32 (1) Any contraceptive drug, device or product approved by the
33 United States Food and Drug Administration, which coverage shall
34 be subject to all of the following conditions:

35 (a) If there is a therapeutic equivalent of a contraceptive drug,
36 device or product approved by the United States Food and Drug
37 Administration, coverage shall be provided for either the requested
38 contraceptive drug, device or product or for one or more therapeutic
39 equivalents of the requested drug, device or product.

40 (b) Coverage shall be provided without a prescription for all
41 contraceptive drugs available for over-the-counter sale that are
42 approved by the United States Food and Drug Administration.

43 (c) Coverage shall be provided without any infringement upon a
44 subscriber's choice of contraception and medical necessity shall be
45 determined by the provider for covered contraceptive drugs, devices
46 or other products approved by the United States Food and Drug
47 Administration.

- 1 (2) Voluntary male and female sterilization.
2 (3) Patient education and counseling on contraception.
3 (4) Services related to the administration and monitoring of
4 drugs, devices, products and services required under this section,
5 including but not limited to:
6 (a) Management of side effects;
7 (b) Counseling for continued adherence to a prescribed regimen;
8 (c) Device insertion and removal;
9 (d) Provision of alternative contraceptive drugs, devices or
10 products deemed medically appropriate in the judgment of the
11 subscriber's health care provider; and
12 (e) Diagnosis and treatment services provided pursuant to, or as
13 a follow-up to, a service required under this section¹.

14 ¹**【For the purposes of this section, "prescription female**
15 **contraceptives" means any drug or device used for contraception**
16 **【by a female】, which is approved by the federal Food and Drug**
17 **Administration for that purpose【, that can only be purchased in this**
18 **State with a prescription written by a health care professional**
19 **licensed or authorized to write prescriptions, and includes, but is**
20 **not limited to, birth control pills and diaphragms】.】**

21 **b.**¹ The coverage provided shall include prescriptions for
22 dispensing contraceptives for:

23 **【a.】 (1)** a three-month period for the first dispensing of the
24 contraceptive; and

25 **【b.】 (2)** a six-month period for any subsequent dispensing of
26 the same contraceptive, regardless of whether coverage under the
27 contract was in effect at the time of the first dispensing, except that
28 an entity subject to this section may provide coverage for a supply
29 of contraceptives that is for less than a six-month period, if a six-
30 month period would extend beyond the term of the contract.

31 **【A religious employer may request, and an insurer shall grant, an**
32 **exclusion under the policy for the coverage required by this section**
33 **if the required coverage conflicts with the religious employer's bona**
34 **fide religious beliefs and practices. A religious employer that**
35 **obtains such an exclusion shall provide written notice thereof to**
36 **prospective insureds and insureds. The provisions of this section**
37 **shall not be construed as authorizing an insurer to exclude coverage**
38 **for prescription drugs that are prescribed for reasons other than**
39 **contraceptive purposes or for prescription female contraceptives**
40 **that are necessary to preserve the life or health of an insured. For**
41 **the purposes of this section, "religious employer" means an**
42 **employer that is a church, convention or association of churches or**
43 **an elementary or secondary school that is controlled, operated or**
44 **principally supported by a church or by a convention or association**
45 **of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that**
46 **qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).】**

1 ¹~~【b.】~~ ¹ ~~c.~~ ²~~【The】~~ (1) Except as provided in paragraph (2) of
2 this subsection, the² benefits shall be provided to the same extent as
3 for any other ¹【outpatient prescription】 service,¹ drug ¹, device,
4 product, or procedure¹ under the policy, except no deductible,
5 coinsurance, copayment, or any other cost-sharing requirement on
6 the coverage shall be imposed.

7 ²(2) In the case of a high deductible health plan, benefits for
8 male sterilization or male contraceptives shall be provided at the
9 lowest deductible and other cost-sharing permitted for a high
10 deductible health plan under section 223(c)(2)(A) of the Internal
11 Revenue Code (26 U.S.C. s.223).²

12 ¹~~【c.】~~ ¹ ~~d.~~ This section shall apply to those policies in which the
13 insurer has reserved the right to change the premium.

14 ¹e. Nothing in this section shall limit coverage of any additional
15 preventive service for women, as identified or recommended by the
16 United States Preventive Services Task Force or the Health
17 Resources and Services Administration of the United States
18 Department of Health and Human Services pursuant to the
19 provisions of 42 U.S.C. 300gg-13.¹

20 (cf: P.L.2017, c.241, s.4)

21

22 5. Section 5 of P.L.2005, c.251 (C.17B:26-2.1y) is amended to
23 read as follows:

24 5. a. An individual health insurer that provides hospital or
25 medical expense benefits ¹~~【for expenses incurred in the purchase of~~
26 ~~outpatient prescription drugs under a policy】¹ shall provide~~
27 ~~coverage under every ¹【such】¹ policy delivered, issued, executed or~~
28 ~~renewed in this State or approved for issuance or renewal in this~~
29 ~~State by the Commissioner of Banking and Insurance, on or after~~
30 ~~the effective date of this act, for expenses incurred in the purchase~~
31 ~~of prescription female contraceptives¹, and the following services,~~
32 ~~drugs, devices, products, and procedures ²on an in-network basis²:~~

33 (1) Any contraceptive drug, device or product approved by the
34 United States Food and Drug Administration, which coverage shall
35 be
36 subject to all of the following conditions:

37 (a) If there is a therapeutic equivalent of a contraceptive drug,
38 device or product approved by the United States Food and Drug
39 Administration, coverage shall be provided for either the requested
40 contraceptive drug, device or product or for one or more therapeutic
41 equivalents of the requested drug, device or product.

42 (b) Coverage shall be provided without a prescription for all
43 contraceptive drugs available for over-the-counter sale that are
44 approved by the United States Food and Drug Administration.

45 (c) Coverage shall be provided without any infringement upon a
46 subscriber's choice of contraception and medical necessity shall be
47 determined by the provider for covered contraceptive drugs, devices

1 or other products approved by the United States Food and Drug
2 Administration.

3 (2) Voluntary male and female sterilization.

4 (3) Patient education and counseling on contraception.

5 (4) Services related to the administration and monitoring of
6 drugs, devices, products and services required under this section,
7 including but not limited to:

8 (a) Management of side effects;

9 (b) Counseling for continued adherence to a prescribed regimen;

10 (c) Device insertion and removal;

11 (d) Provision of alternative contraceptive drugs, devices or
12 products deemed medically appropriate in the judgment of the
13 subscriber's health care provider; and

14 (e) Diagnosis and treatment services provided pursuant to, or as
15 a follow-up to, a service required under this section¹.

16 ¹**【For the purposes of this section, "prescription female**
17 **contraceptives" means any drug or device used for contraception**
18 **【by a female】, which is approved by the federal Food and Drug**
19 **Administration for that purpose【, that can only be purchased in this**
20 **State with a prescription written by a health care professional**
21 **licensed or authorized to write prescriptions, and includes, but is**
22 **not limited to, birth control pills and diaphragms】.】**

23 **b.**¹ The coverage provided shall include prescriptions for
24 dispensing contraceptives for:

25 **【a.】 (1)** a three-month period for the first dispensing of the
26 contraceptive; and

27 **【b.】 (2)** a six-month period for any subsequent dispensing of
28 the same contraceptive, regardless of whether coverage under the
29 contract was in effect at the time of the first dispensing, except that
30 an entity subject to this section may provide coverage for a supply
31 of contraceptives that is for less than a six-month period, if a six-
32 month period would extend beyond the term of the contract.

33 **【A religious employer may request, and an insurer shall grant, an**
34 **exclusion under the policy for the coverage required by this section**
35 **if the required coverage conflicts with the religious employer's bona**
36 **fide religious beliefs and practices. A religious employer that**
37 **obtains such an exclusion shall provide written notice thereof to**
38 **prospective insureds and insureds. The provisions of this section**
39 **shall not be construed as authorizing an insurer to exclude coverage**
40 **for prescription drugs that are prescribed for reasons other than**
41 **contraceptive purposes or for prescription female contraceptives**
42 **that are necessary to preserve the life or health of an insured. For**
43 **the purposes of this section, "religious employer" means an**
44 **employer that is a church, convention or association of churches or**
45 **an elementary or secondary school that is controlled, operated or**
46 **principally supported by a church or by a convention or association**

1 of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that
2 qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).】

3 ¹【b.】 ¹ c. ²【The】 (1) Except as provided in paragraph (2) of
4 this subsection, the² benefits shall be provided to the same extent as
5 for any other ¹【outpatient prescription】 service,¹ drug ¹, device,
6 product, or procedure¹ under the policy, except no deductible,
7 coinsurance, copayment, or any other cost-sharing requirement on
8 the coverage shall be imposed.

9 ²(2) In the case of a high deductible health plan, benefits for
10 male sterilization or male contraceptives shall be provided at the
11 lowest deductible and other cost-sharing permitted for a high
12 deductible health plan under section 223(c)(2)(A) of the Internal
13 Revenue Code (26 U.S.C. s.223).²

14 ¹【c.】 ¹ d. This section shall apply to those policies in which the
15 insurer has reserved the right to change the premium.

16 ¹e. Nothing in this section shall limit coverage of any additional
17 preventive service for women, as identified or recommended by the
18 United States Preventive Services Task Force or the Health
19 Resources and Services Administration of the United States
20 Department of Health and Human Services pursuant to the
21 provisions of 42 U.S.C. 300gg-13.¹

22 (cf: P.L.2017, c.241, s.5)

23
24 6. Section 6 of P.L.2005, c.251 (C.26:2J-4.30) is amended to
25 read as follows:

26 6. a. A certificate of authority to establish and operate a health
27 maintenance organization in this State shall not be issued or
28 continued on or after the effective date of this act for a health
29 maintenance organization ¹【that provides health care services for
30 outpatient prescription drugs under a contract】¹, unless the health
31 maintenance organization ¹【also】¹ provides health care services for
32 prescription female contraceptives¹, and the following services,
33 drugs, devices, products, and procedures² on an in-network basis²:

34 (1) Any contraceptive drug, device or product approved by the
35 United States Food and Drug Administration, which coverage shall
36 be subject to all of the following conditions:

37 (a) If there is a therapeutic equivalent of a contraceptive drug,
38 device or product approved by the United States Food and Drug
39 Administration, coverage shall be provided for either the requested
40 contraceptive drug, device or product or for one or more therapeutic
41 equivalents of the requested drug, device or product.

42 (b) Coverage shall be provided without a prescription for all
43 contraceptive drugs available for over-the-counter sale that are
44 approved by the United States Food and Drug Administration.

45 (c) Coverage shall be provided without any infringement upon a
46 subscriber's choice of contraception and medical necessity shall be
47 determined by the provider for covered contraceptive drugs, devices

1 or other products approved by the United States Food and Drug
2 Administration.

3 (2) Voluntary male and female sterilization.

4 (3) Patient education and counseling on contraception.

5 (4) Services related to the administration and monitoring of
6 drugs, devices, products and services required under this section,
7 including but not limited to:

8 (a) Management of side effects;

9 (b) Counseling for continued adherence to a prescribed regimen;

10 (c) Device insertion and removal;

11 (d) Provision of alternative contraceptive drugs, devices or
12 products deemed medically appropriate in the judgment of the
13 subscriber's health care provider; and

14 (e) Diagnosis and treatment services provided pursuant to, or as
15 a follow-up to, a service required under this section¹.

16 ¹**【For the purposes of this section, "prescription female**
17 **contraceptives" means any drug or device used for contraception**
18 **【by a female】, which is approved by the federal Food and Drug**
19 **Administration for that purpose【, that can only be purchased in this**
20 **State with a prescription written by a health care professional**
21 **licensed or authorized to write prescriptions, and includes, but is**
22 **not limited to, birth control pills and diaphragms】.】**

23 **b.**¹ The coverage provided shall include prescriptions for
24 dispensing contraceptives for:

25 **【a.】** (1) a three-month period for the first dispensing of the
26 contraceptive; and

27 **【b.】** (2) a six-month period for any subsequent dispensing of
28 the same contraceptive, regardless of whether coverage under the
29 contract was in effect at the time of the first dispensing, except that
30 an entity subject to this section may provide coverage for a supply
31 of contraceptives that is for less than a six-month period, if a six-
32 month period would extend beyond the term of the contract.

33 **【A religious employer may request, and a health maintenance**
34 **organization shall grant, an exclusion under the contract for the**
35 **health care services required by this section if the required health**
36 **care services conflict with the religious employer's bona fide**
37 **religious beliefs and practices. A religious employer that obtains**
38 **such an exclusion shall provide written notice thereof to prospective**
39 **enrollees and enrollees. The provisions of this section shall not be**
40 **construed as authorizing a health maintenance organization to**
41 **exclude health care services for prescription drugs that are**
42 **prescribed for reasons other than contraceptive purposes or for**
43 **prescription female contraceptives that are necessary to preserve the**
44 **life or health of an enrollee. For the purposes of this section,**
45 **"religious employer" means an employer that is a church,**
46 **convention or association of churches or an elementary or**
47 **secondary school that is controlled, operated or principally**

1 supported by a church or by a convention or association of churches
2 as defined in 26 U.S.C.s.3121(w)(3)(A), and that qualifies as a tax-
3 exempt organization under 26 U.S.C.s.501(c)(3).】

4 ¹【b.】 c.¹ ²【The】 (1) Except as provided in paragraph (2) of
5 this subsection, the² health care services shall be provided to the
6 same extent as for any other ¹【outpatient prescription】 service,¹
7 drug ¹, device, product, or procedure¹ under the contract, except no
8 deductible, coinsurance, copayment, or any other cost-sharing
9 requirement on the coverage shall be imposed.

10 ²(2) In the case of a high deductible health plan, benefits for
11 male sterilization or male contraceptives shall be provided at the
12 lowest deductible and other cost-sharing permitted for a high
13 deductible health plan under section 223(c)(2)(A) of the Internal
14 Revenue Code (26 U.S.C. s.223).²

15 ¹【c.】 d.¹ The provisions of this section shall apply to those
16 contracts for health care services by health maintenance
17 organizations under which the right to change the schedule of
18 charges for enrollee coverage is reserved.

19 ¹e. Nothing in this section shall limit coverage of any additional
20 preventive service for women, as identified or recommended by the
21 United States Preventive Services Task Force or the Health
22 Resources and Services Administration of the United States
23 Department of Health and Human Services pursuant to the
24 provisions of 42 U.S.C. 300gg-13.¹

25 (cf: P.L.2017, c.241, s.6)

26
27 7. Section 7 of P.L.2005, c.251 (C.17B:27A-7.12) is amended
28 to read as follows:

29 7. a. An individual health benefits plan required pursuant to
30 section 3 of P.L.1992, c.161 (C.17B:27A-4) ¹【that provides benefits
31 for expenses incurred in the purchase of outpatient prescription
32 drugs】¹ shall provide coverage for expenses incurred in the
33 purchase of prescription female contraceptives¹, and the following
34 services, drugs, devices, products, and procedures ²on an in-
35 network basis²:

36 (1) Any contraceptive drug, device or product approved by the
37 United States Food and Drug Administration, which coverage shall
38 be subject to all of the following conditions:

39 (a) If there is a therapeutic equivalent of a contraceptive drug,
40 device or product approved by the United States Food and Drug
41 Administration, coverage shall be provided for either the requested
42 contraceptive drug, device or product or for one or more therapeutic
43 equivalents of the requested drug, device or product.

44 (b) Coverage shall be provided without a prescription for all
45 contraceptive drugs available for over-the-counter sale that are
46 approved by the United States Food and Drug Administration.

1 (c) Coverage shall be provided without any infringement upon a
2 subscriber's choice of contraception and medical necessity shall be
3 determined by the provider for covered contraceptive drugs, devices
4 or other products approved by the United States Food and Drug
5 Administration.

6 (2) Voluntary male and female sterilization.

7 (3) Patient education and counseling on contraception.

8 (4) Services related to the administration and monitoring of
9 drugs, devices, products and services required under this section,
10 including but not limited to:

11 (a) Management of side effects;

12 (b) Counseling for continued adherence to a prescribed regimen;

13 (c) Device insertion and removal;

14 (d) Provision of alternative contraceptive drugs, devices or
15 products deemed medically appropriate in the judgment of the
16 subscriber's health care provider; and

17 (e) Diagnosis and treatment services provided pursuant to, or as
18 a follow-up to, a service required under this section¹.

19 ¹**【For the purposes of this section, "prescription female**
20 **contraceptives" means any drug or device used for contraception**
21 **【by a female】, which is approved by the federal Food and Drug**
22 **Administration for that purpose【, that can only be purchased in this**
23 **State with a prescription written by a health care professional**
24 **licensed or authorized to write prescriptions, and includes, but is**
25 **not limited to, birth control pills and diaphragms】.】**

26 **b.**¹ The coverage provided shall include prescriptions for
27 dispensing contraceptives for:

28 **【a.】** **(1)** a three-month period for the first dispensing of the
29 contraceptive; and

30 **【b.】** **(2)** a six-month period for any subsequent dispensing of
31 the same contraceptive, regardless of whether coverage under the
32 contract was in effect at the time of the first dispensing, except that
33 an entity subject to this section may provide coverage for a supply
34 of contraceptives that is for less than a six-month period, if a six-
35 month period would extend beyond the term of the contract.

36 **【A religious employer may request, and a carrier shall grant, an**
37 **exclusion under the health benefits plan for the coverage required**
38 **by this section if the required coverage conflicts with the religious**
39 **employer's bona fide religious beliefs and practices. A religious**
40 **employer that obtains such an exclusion shall provide written notice**
41 **thereof to prospective covered persons and covered persons. The**
42 **provisions of this section shall not be construed as authorizing a**
43 **carrier to exclude coverage for prescription drugs that are**
44 **prescribed for reasons other than contraceptive purposes or for**
45 **prescription female contraceptives that are necessary to preserve the**
46 **life or health of a covered person. For the purposes of this section,**
47 **"religious employer" means an employer that is a church,**

1 convention or association of churches or an elementary or
2 secondary school that is controlled, operated or principally
3 supported by a church or by a convention or association of churches
4 as defined in 26 U.S.C.s.3121(w)(3)(A), and that qualifies as a tax-
5 exempt organization under 26 U.S.C.s.501(c)(3).】

6 ¹【b.】 c.¹ ²【The】 (1) Except as provided in paragraph (2) of
7 this subsection, the² benefits shall be provided to the same extent as
8 for any other ¹【outpatient prescription】 service,¹ drug ¹, device,
9 product, or procedure¹ under the health benefits plan, except no
10 deductible, coinsurance, copayment, or any other cost-sharing
11 requirement on the coverage shall be imposed.

12 ²(2) In the case of a high deductible health plan, benefits for
13 male sterilization or male contraceptives shall be provided at the
14 lowest deductible and other cost-sharing permitted for a high
15 deductible health plan under section 223(c)(2)(A) of the Internal
16 Revenue Code (26 U.S.C. s.223).²

17 ¹【c.】 d.¹ This section shall apply to all individual health
18 benefits plans in which the carrier has reserved the right to change
19 the premium.

20 ¹e. Nothing in this section shall limit coverage of any additional
21 preventive service for women, as identified or recommended by the
22 United States Preventive Services Task Force or the Health
23 Resources and Services Administration of the United States
24 Department of Health and Human Services pursuant to the
25 provisions of 42 U.S.C. 300gg-13.¹
26 (cf: P.L.2017, c.241, s.7)

27
28 8. Section 8 of P.L.2005, c.251 (C.17B:27A-19.15) is amended
29 to read as follows:

30 8. a. A small employer health benefits plan required pursuant
31 to section 3 of P.L.1992, c.162 (C.17B:27A-19) ¹【that provides
32 benefits for expenses incurred in the purchase of outpatient
33 prescription drugs】¹ shall provide coverage for expenses incurred in
34 the purchase of prescription female contraceptives¹, and the
35 following services, drugs, devices, products, and procedures ²on an
36 in-network basis²:

37 (1) Any contraceptive drug, device or product approved by the
38 United States Food and Drug Administration, which coverage shall
39 be subject to all of the following conditions:

40 (a) If there is a therapeutic equivalent of a contraceptive drug,
41 device or product approved by the United States Food and Drug
42 Administration, coverage shall be provided for either the requested
43 contraceptive drug, device or product or for one or more therapeutic
44 equivalents of the requested drug, device or product.

45 (b) Coverage shall be provided without a prescription for all
46 contraceptive drugs available for over-the-counter sale that are
47 approved by the United States Food and Drug Administration.

1 (c) Coverage shall be provided without any infringement upon a
2 subscriber's choice of contraception and medical necessity shall be
3 determined by the provider for covered contraceptive drugs, devices
4 or other products approved by the United States Food and Drug
5 Administration.

6 (2) Voluntary male and female sterilization.

7 (3) Patient education and counseling on contraception.

8 (4) Services related to the administration and monitoring of
9 drugs, devices, products and services required under this section,
10 including but not limited to:

11 (a) Management of side effects;

12 (b) Counseling for continued adherence to a prescribed regimen;

13 (c) Device insertion and removal;

14 (d) Provision of alternative contraceptive drugs, devices or
15 products deemed medically appropriate in the judgment of the
16 subscriber's health care provider; and

17 (e) Diagnosis and treatment services provided pursuant to, or as
18 a follow-up to, a service required under this section¹.

19 ¹**【For the purposes of this section, "prescription female**
20 **contraceptives" means any drug or device used for contraception**
21 **【by a female】, which is approved by the federal Food and Drug**
22 **Administration for that purpose【, that can only be purchased in this**
23 **State with a prescription written by a health care professional**
24 **licensed or authorized to write prescriptions, and includes, but is**
25 **not limited to, birth control pills and diaphragms】.】**

26 **b.**¹ The coverage provided shall include prescriptions for
27 dispensing contraceptives for:

28 **【a.】** (1) a three-month period for the first dispensing of the
29 contraceptive; and

30 **【b.】** (2) a six-month period for any subsequent dispensing of
31 the same contraceptive, regardless of whether coverage under the
32 contract was in effect at the time of the first dispensing, except that
33 an entity subject to this section may provide coverage for a supply
34 of contraceptives that is for less than a six-month period, if a six-
35 month period would extend beyond the term of the contract.

36 **【A religious employer may request, and a carrier shall grant, an**
37 **exclusion under the health benefits plan for the coverage required**
38 **by this section if the required coverage conflicts with the religious**
39 **employer's bona fide religious beliefs and practices. A religious**
40 **employer that obtains such an exclusion shall provide written notice**
41 **thereof to prospective covered persons and covered persons. The**
42 **provisions of this section shall not be construed as authorizing a**
43 **carrier to exclude coverage for prescription drugs that are**
44 **prescribed for reasons other than contraceptive purposes or for**
45 **prescription female contraceptives that are necessary to preserve the**
46 **life or health of a covered person. For the purposes of this section,**
47 **"religious employer" means an employer that is a church,**

1 convention or association of churches or an elementary or
 2 secondary school that is controlled, operated or principally
 3 supported by a church or by a convention or association of churches
 4 as defined in 26 U.S.C.s.3121(w)(3)(A), and that qualifies as a tax-
 5 exempt organization under 26 U.S.C.s.501(c)(3).】

6 ¹【b.】 c.¹ ²【The】 (1) Except as provided in paragraph (2) of
 7 this subsection, the² benefits shall be provided to the same extent as
 8 for any other ¹【outpatient prescription】 service,¹ drug ¹, device,
 9 product, or procedure¹ under the health benefits plan, except no
 10 deductible, coinsurance, copayment, or any other cost-sharing
 11 requirement on the coverage shall be imposed.

12 ²(2) In the case of a high deductible health plan, benefits for
 13 male sterilization or male contraceptives shall be provided at the
 14 lowest deductible and other cost-sharing permitted for a high
 15 deductible health plan under section 223(c)(2)(A) of the Internal
 16 Revenue Code (26 U.S.C. s.223).²

17 ¹【c.】 d.¹ This section shall apply to all small employer health
 18 benefits plans in which the carrier has reserved the right to change
 19 the premium.

20 ¹e. Nothing in this section shall limit coverage of any additional
 21 preventive service for women, as identified or recommended by the
 22 United States Preventive Services Task Force or the Health
 23 Resources and Services Administration of the United States
 24 Department of Health and Human Services pursuant to the
 25 provisions of 42 U.S.C. 300gg-13.¹

26 (cf: P.L.2017, c.241, s.8)

27

28 9. Section 9 of P.L.2005, c.251 (C.17:48F-13.2) is amended to
 29 read as follows:

30 9. a. A prepaid prescription service organization ¹【that
 31 provides benefits for expenses incurred in the purchase of
 32 outpatient prescription drugs under a contract】¹ shall provide
 33 coverage under every ¹【such】¹ contract delivered, issued, executed
 34 or renewed in this State or approved for issuance or renewal in this
 35 State by the Commissioner of Banking and Insurance, on or after
 36 the effective date of this act, for expenses incurred in the purchase
 37 of prescription female contraceptives¹, and the services, drugs,
 38 devices, products, and procedures ²on an in-network basis² as
 39 determined to be required to be covered by the commissioner
 40 pursuant to subsection b. of this section.

41 b. The Commissioner of Banking and Insurance shall
 42 determine, in the commissioner's discretion, which provisions of
 43 the coverage requirements applicable to insurers pursuant to
 44 P.L. , c. (C.) (pending before the Legislature as this bill,)
 45 shall apply to prepaid prescription organizations, and shall adopt
 46 regulations in accordance with the commissioner's determination¹.

1 ¹【For the purposes of this section, "prescription female
2 contraceptives" means any drug or device used for contraception
3 【by a female】, which is approved by the federal Food and Drug
4 Administration for that purpose【, that can only be purchased in this
5 State with a prescription written by a health care professional
6 licensed or authorized to write prescriptions, and includes, but is
7 not limited to, birth control pills and diaphragms】.】

8 c.¹ The coverage provided shall include prescriptions for
9 dispensing contraceptives for:

10 【a.】 (1) a three-month period for the first dispensing of the
11 contraceptive; and

12 【b.】 (2) a six-month period for any subsequent dispensing of
13 the same contraceptive, regardless of whether coverage under the
14 contract was in effect at the time of the first dispensing, except that
15 an entity subject to this section may provide coverage for a supply
16 of contraceptives that is for less than a six-month period, if a six-
17 month period would extend beyond the term of the contract.

18 【A religious employer may request, and a prepaid prescription
19 service organization shall grant, an exclusion under the contract for
20 the coverage required by this section if the required coverage
21 conflicts with the religious employer's bona fide religious beliefs
22 and practices. A religious employer that obtains such an exclusion
23 shall provide written notice thereof to prospective enrollees and
24 enrollees. The provisions of this section shall not be construed as
25 authorizing a prepaid prescription service organization to exclude
26 coverage for prescription drugs that are prescribed for reasons other
27 than contraceptive purposes or for prescription female
28 contraceptives that are necessary to preserve the life or health of an
29 enrollee. For the purposes of this section, "religious employer"
30 means an employer that is a church, convention or association of
31 churches or an elementary or secondary school that is controlled,
32 operated or principally supported by a church or by a convention or
33 association of churches as defined in 26 U.S.C.s.3121(w)(3)(A),
34 and that qualifies as a tax-exempt organization under 26
35 U.S.C.s.501(c)(3).】

36 ¹【b.】 d.¹ ²【The】 (1) Except as provided in paragraph (2) of
37 this subsection, the² benefits shall be provided to the same extent as
38 for any other ¹【outpatient prescription】 service,¹ drug ¹, device,
39 product, or procedure¹ under the contract, except no deductible,
40 coinsurance, copayment, or any other cost-sharing requirement on
41 the coverage shall be imposed.

42 ²(2) In the case of a high deductible health plan, benefits for male
43 sterilization or male contraceptives shall be provided at the lowest
44 deductible and other cost-sharing permitted for a high deductible
45 health plan under section 223(c)(2)(A) of the Internal Revenue
46 Code (26 U.S.C. s.223).²

1 ¹~~【c.】~~ e.¹ This section shall apply to those prepaid prescription
2 contracts in which the prepaid prescription service organization has
3 reserved the right to change the premium.

4 ¹f. Nothing in this section shall limit coverage of any additional
5 preventive service for women, as identified or recommended by the
6 United States Preventive Services Task Force or the Health
7 Resources and Services Administration of the United States
8 Department of Health and Human Services pursuant to the
9 provisions of 42 U.S.C. 300gg-13.¹

10 (cf: P.L.2017, c.241, s.9)

11
12 10. Section 10 of P.L.2005, c.251 (C.52:14-17.29j) is amended
13 to read as follows:

14 10. a. The State Health Benefits Commission shall ensure that
15 every contract purchased by the commission on or after the
16 effective date of this act ¹【that provides benefits for expenses
17 incurred in the purchase of outpatient prescription drugs】¹ shall
18 provide benefits for expenses incurred in the purchase of
19 prescription female contraceptives¹, and the following services,
20 drugs, devices, products, and procedures²on an in-network basis²:

21 (1) Any contraceptive drug, device or product approved by the
22 United States Food and Drug Administration, which coverage shall
23 be subject to all of the following conditions:

24 (a) If there is a therapeutic equivalent of a contraceptive drug,
25 device or product approved by the United States Food and Drug
26 Administration, coverage shall be provided for either the requested
27 contraceptive drug, device or product or for one or more therapeutic
28 equivalents of the requested drug, device or product.

29 (b) Coverage shall be provided without a prescription for all
30 contraceptive drugs available for over-the-counter sale that are
31 approved by the United States Food and Drug Administration.

32 (c) Coverage shall be provided without any infringement upon a
33 subscriber's choice of contraception and medical necessity shall be
34 determined by the provider for covered contraceptive drugs, devices
35 or other products approved by the United States Food and Drug
36 Administration.

37 (2) Voluntary male and female sterilization.

38 (3) Patient education and counseling on contraception.

39 (4) Services related to the administration and monitoring of
40 drugs, devices, products and services required under this section,
41 including but not limited to:

42 (a) Management of side effects;

43 (b) Counseling for continued adherence to a prescribed regimen;

44 (c) Device insertion and removal;

45 (d) Provision of alternative contraceptive drugs, devices or
46 products deemed medically appropriate in the judgment of the
47 subscriber's health care provider; and

1 (e) Diagnosis and treatment services provided pursuant to, or as
2 a follow-up to, a service required under this section¹.

3 ¹**【For the purposes of this section, "prescription female**
4 **contraceptives" means any drug or device used for contraception**
5 **【by a female】, which is approved by the federal Food and Drug**
6 **Administration for that purpose【, that can only be purchased in this**
7 **State with a prescription written by a health care professional**
8 **licensed or authorized to write prescriptions, and includes, but is**
9 **not limited to, birth control pills and diaphragms】.】**

10 **b.**¹ The coverage provided shall include prescriptions for
11 dispensing contraceptives for:

12 **【a.】** (1) a three-month period for the first dispensing of the
13 contraceptive; and

14 **【b.】** (2) a six-month period for any subsequent dispensing of
15 the same contraceptive, regardless of whether coverage under the
16 contract was in effect at the time of the first dispensing, except that
17 an entity subject to this section may provide coverage for a supply
18 of contraceptives that is for less than a six-month period, if a six-
19 month period would extend beyond the term of the contract.

20 ¹**【b.】** c.¹ ²**【The】** (1) Except as provided in paragraph (2) of this
21 subsection, the² contract shall specify that no deductible,
22 coinsurance, copayment, or any other cost-sharing requirement may
23 be imposed on the coverage required pursuant to this section.

24 ²(2) In the case of a high deductible health plan, benefits for
25 male sterilization or male contraceptives shall be provided at the
26 lowest deductible and other cost-sharing permitted for a high
27 deductible health plan under section 223(c)(2)(A) of the Internal
28 Revenue Code (26 U.S.C. s.223).²

29 ¹d. Nothing in this section shall limit coverage of any additional
30 preventive service for women, as identified or recommended by the
31 United States Preventive Services Task Force or the Health
32 Resources and Services Administration of the United States
33 Department of Health and Human Services pursuant to the
34 provisions of 42 U.S.C. 300gg-13.¹

35 (cf: P.L.2017, c.241, s.10)

36
37 11. This act shall take effect on the 90th day next following
38 enactment and shall apply to policies or contracts issued or renewed
39 on or after the effective date.

40
41
42
43
44 Revises law requiring health benefits coverage for certain
45 contraceptives.

ASSEMBLY, No. 5508

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JUNE 6, 2019

Sponsored by:

Assemblyman ANDREW ZWICKER

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Assemblywoman CAROL A. MURPHY

District 7 (Burlington)

Assemblywoman SHAVONDA E. SUMTER

District 35 (Bergen and Passaic)

Co-Sponsored by:

Assemblywomen Vainieri Huttle and Lampitt

SYNOPSIS

Revises law requiring health benefits coverage for certain contraceptives.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/11/2019)

1 AN ACT concerning health benefits coverage for contraceptives and
2 amending P.L.2005, c.251.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 1 of P.L.2005, c.251 (C.17:48-6ee) is amended to
8 read as follows:

9 1. a. A hospital service corporation that provides hospital or
10 medical expense benefits for expenses incurred in the purchase of
11 outpatient prescription drugs under a contract shall provide
12 coverage under every such contract delivered, issued, executed or
13 renewed in this State or approved for issuance or renewal in this
14 State by the Commissioner of Banking and Insurance, on or after
15 the effective date of this act, for expenses incurred in the purchase
16 of prescription female contraceptives. For the purposes of this
17 section, "prescription female contraceptives" means any drug or
18 device used for contraception by a female, which is approved by the
19 federal Food and Drug Administration for that purpose, that can
20 **[only]** be purchased in this State with a prescription written by a
21 health care professional licensed or authorized to write
22 prescriptions, and includes, but is not limited to, birth control pills
23 and diaphragms. The coverage provided shall include prescriptions
24 for dispensing contraceptives for:

25 **[a.]** (1) a three-month period for the first dispensing of the
26 contraceptive; and

27 **[b.]** (2) a six-month period for any subsequent dispensing of
28 the same contraceptive, regardless of whether coverage under the
29 contract was in effect at the time of the first dispensing, except that
30 an entity subject to this section may provide coverage for a supply
31 of contraceptives that is for less than a six-month period, if a six-
32 month period would extend beyond the term of the contract.

33 **[A** religious employer may request, and a hospital service
34 corporation shall grant, an exclusion under the contract for the
35 coverage required by this section if the required coverage conflicts
36 with the religious employer's bona fide religious beliefs and
37 practices. A religious employer that obtains such an exclusion shall
38 provide written notice thereof to prospective subscribers and
39 subscribers. The provisions of this section shall not be construed as
40 authorizing a hospital service corporation to exclude coverage for
41 prescription drugs that are prescribed for reasons other than
42 contraceptive purposes or for prescription female contraceptives
43 that are necessary to preserve the life or health of a subscriber. For
44 the purposes of this section, "religious employer" means an

EXPLANATION – Matter enclosed in bold-faced brackets **[thus] in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 employer that is a church, convention or association of churches or
2 an elementary or secondary school that is controlled, operated or
3 principally supported by a church or by a convention or association
4 of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that
5 qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3). **】**

6 b. The benefits shall be provided to the same extent as for any
7 other outpatient prescription drug under the contract, except no
8 deductible, coinsurance, copayment, or any other cost-sharing
9 requirement on the coverage shall be imposed.

10 c. This section shall apply to those contracts in which the
11 hospital service corporation has reserved the right to change the
12 premium.

13 (cf: P.L.2017, c.241, s.1)

14
15 2. Section 2 of P.L.2005, c.251 (C.17:48A-7bb) is amended to
16 read as follows:

17 2. a. A medical service corporation that provides hospital or
18 medical expense benefits for expenses incurred in the purchase of
19 outpatient prescription drugs under a contract shall provide
20 coverage under every such contract delivered, issued, executed or
21 renewed in this State or approved for issuance or renewal in this
22 State by the Commissioner of Banking and Insurance, on or after
23 the effective date of this act, for expenses incurred in the purchase
24 of prescription female contraceptives. For the purposes of this
25 section, "prescription female contraceptives" means any drug or
26 device used for contraception by a female, which is approved by the
27 federal Food and Drug Administration for that purpose, that can
28 **【only】** be purchased in this State with a prescription written by a
29 health care professional licensed or authorized to write
30 prescriptions, and includes, but is not limited to, birth control pills
31 and diaphragms. The coverage provided shall include prescriptions
32 for dispensing contraceptives for:

33 **【a.】** (1) a three-month period for the first dispensing of the
34 contraceptive; and

35 **【b.】** (2) a six-month period for any subsequent dispensing of
36 the same contraceptive, regardless of whether coverage under the
37 contract was in effect at the time of the first dispensing, except that
38 an entity subject to this section may provide coverage for a supply
39 of contraceptives that is for less than a six-month period, if a six-
40 month period would extend beyond the term of the contract.

41 **【A** religious employer may request, and a medical service
42 corporation shall grant, an exclusion under the contract for the
43 coverage required by this section if the required coverage conflicts
44 with the religious employer's bona fide religious beliefs and
45 practices. A religious employer that obtains such an exclusion shall
46 provide written notice thereof to prospective subscribers and
47 subscribers. The provisions of this section shall not be construed as

1 authorizing a medical service corporation to exclude coverage for
2 prescription drugs that are prescribed for reasons other than
3 contraceptive purposes or for prescription female contraceptives
4 that are necessary to preserve the life or health of a subscriber. For
5 the purposes of this section, "religious employer" means an
6 employer that is a church, convention or association of churches or
7 an elementary or secondary school that is controlled, operated or
8 principally supported by a church or by a convention or association
9 of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that
10 qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).】

11 b. The benefits shall be provided to the same extent as for any
12 other outpatient prescription drug under the contract, except no
13 deductible, coinsurance, copayment, or any other cost-sharing
14 requirement on the coverage shall be imposed.

15 c. This section shall apply to those contracts in which the
16 medical service corporation has reserved the right to change the
17 premium.

18 (cf: P.L.2017, c.241, s.2)

19

20 3. Section 3 of P.L.2005, c.251 (C.17:48E-35.29) is amended
21 to read as follows:

22 3. a. A health service corporation that provides hospital or
23 medical expense benefits for expenses incurred in the purchase of
24 outpatient prescription drugs under a contract shall provide
25 coverage under every such contract delivered, issued, executed or
26 renewed in this State or approved for issuance or renewal in this
27 State by the Commissioner of Banking and Insurance, on or after
28 the effective date of this act, for expenses incurred in the purchase
29 of prescription female contraceptives. For the purposes of this
30 section, "prescription female contraceptives" means any drug or
31 device used for contraception by a female, which is approved by the
32 federal Food and Drug Administration for that purpose, that can
33 **【only】** be purchased in this State with a prescription written by a
34 health care professional licensed or authorized to write
35 prescriptions, and includes, but is not limited to, birth control pills
36 and diaphragms. The coverage provided shall include prescriptions
37 for dispensing contraceptives for:

38 **【a.】** (1) a three-month period for the first dispensing of the
39 contraceptive; and

40 **【b.】** (2) a six-month period for any subsequent dispensing of
41 the same contraceptive, regardless of whether coverage under the
42 contract was in effect at the time of the first dispensing, except that
43 an entity subject to this section may provide coverage for a supply
44 of contraceptives that is for less than a six-month period, if a six-
45 month period would extend beyond the term of the contract.

46 **【A** religious employer may request, and a health service
47 corporation shall grant, an exclusion under the contract for the

1 coverage required by this section if the required coverage conflicts
2 with the religious employer's bona fide religious beliefs and
3 practices. A religious employer that obtains such an exclusion shall
4 provide written notice thereof to prospective subscribers and
5 subscribers. The provisions of this section shall not be construed as
6 authorizing a health service corporation to exclude coverage for
7 prescription drugs that are prescribed for reasons other than
8 contraceptive purposes or for prescription female contraceptives
9 that are necessary to preserve the life or health of a subscriber. For
10 the purposes of this section, "religious employer" means an
11 employer that is a church, convention or association of churches or
12 an elementary or secondary school that is controlled, operated or
13 principally supported by a church or by a convention or association
14 of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that
15 qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3). **】**

16 **b.** The benefits shall be provided to the same extent as for any
17 other outpatient prescription drug under the contract, except no
18 deductible, coinsurance, copayment, or any other cost-sharing
19 requirement on the coverage shall be imposed.

20 **c.** This section shall apply to those contracts in which the
21 health service corporation has reserved the right to change the
22 premium.

23 (cf: P.L.2017, c.241, s.3)

24
25 4. Section 4 of P.L. 2005, c.251 (C.17B:27-46.1ee) is amended
26 to read as follows:

27 4. **a.** A group health insurer that provides hospital or medical
28 expense benefits for expenses incurred in the purchase of outpatient
29 prescription drugs under a policy shall provide coverage under
30 every such policy delivered, issued, executed or renewed in this
31 State or approved for issuance or renewal in this State by the
32 Commissioner of Banking and Insurance, on or after the effective
33 date of this act, for expenses incurred in the purchase of
34 prescription female contraceptives. For the purposes of this section,
35 "prescription female contraceptives" means any drug or device used
36 for contraception by a female, which is approved by the federal
37 Food and Drug Administration for that purpose, that can **【only】**
38 purchased in this State with a prescription written by a health care
39 professional licensed or authorized to write prescriptions, and
40 includes, but is not limited to, birth control pills and diaphragms.
41 The coverage provided shall include prescriptions for dispensing
42 contraceptives for:

43 **【a.】** **(1)** a three-month period for the first dispensing of the
44 contraceptive; and

45 **【b.】** **(2)** a six-month period for any subsequent dispensing of
46 the same contraceptive, regardless of whether coverage under the
47 contract was in effect at the time of the first dispensing, except that
48 an entity subject to this section may provide coverage for a supply

1 of contraceptives that is for less than a six-month period, if a six-
2 month period would extend beyond the term of the contract.

3 **【**A religious employer may request, and an insurer shall grant, an
4 exclusion under the policy for the coverage required by this section
5 if the required coverage conflicts with the religious employer's bona
6 fide religious beliefs and practices. A religious employer that
7 obtains such an exclusion shall provide written notice thereof to
8 prospective insureds and insureds. The provisions of this section
9 shall not be construed as authorizing an insurer to exclude coverage
10 for prescription drugs that are prescribed for reasons other than
11 contraceptive purposes or for prescription female contraceptives
12 that are necessary to preserve the life or health of an insured. For
13 the purposes of this section, "religious employer" means an
14 employer that is a church, convention or association of churches or
15 an elementary or secondary school that is controlled, operated or
16 principally supported by a church or by a convention or association
17 of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that
18 qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).**】**

19 b. The benefits shall be provided to the same extent as for any
20 other outpatient prescription drug under the policy, except no
21 deductible, coinsurance, copayment, or any other cost-sharing
22 requirement on the coverage shall be imposed.

23 c. This section shall apply to those policies in which the insurer
24 has reserved the right to change the premium.

25 (cf: P.L.2017, c.241, s.4)

26

27 5. Section 5 of P.L.2005, c.251 (C.17B:26-2.1y) is amended to
28 read as follows:

29 5. a. An individual health insurer that provides hospital or
30 medical expense benefits for expenses incurred in the purchase of
31 outpatient prescription drugs under a policy shall provide coverage
32 under every such policy delivered, issued, executed or renewed in
33 this State or approved for issuance or renewal in this State by the
34 Commissioner of Banking and Insurance, on or after the effective
35 date of this act, for expenses incurred in the purchase of
36 prescription female contraceptives. For the purposes of this section,
37 "prescription female contraceptives" means any drug or device used
38 for contraception by a female, which is approved by the federal
39 Food and Drug Administration for that purpose, that can **【only】** be
40 purchased in this State with a prescription written by a health care
41 professional licensed or authorized to write prescriptions, and
42 includes, but is not limited to, birth control pills and diaphragms.
43 The coverage provided shall include prescriptions for dispensing
44 contraceptives for:

45 **【a.】** (1) a three-month period for the first dispensing of the
46 contraceptive; and

1 **【b.】** (2) a six-month period for any subsequent dispensing of
2 the same contraceptive, regardless of whether coverage under the
3 contract was in effect at the time of the first dispensing, except that
4 an entity subject to this section may provide coverage for a supply
5 of contraceptives that is for less than a six-month period, if a six-
6 month period would extend beyond the term of the contract.

7 **【A religious employer may request, and an insurer shall grant, an**
8 **exclusion under the policy for the coverage required by this section**
9 **if the required coverage conflicts with the religious employer's bona**
10 **fide religious beliefs and practices. A religious employer that**
11 **obtains such an exclusion shall provide written notice thereof to**
12 **prospective insureds and insureds. The provisions of this section**
13 **shall not be construed as authorizing an insurer to exclude coverage**
14 **for prescription drugs that are prescribed for reasons other than**
15 **contraceptive purposes or for prescription female contraceptives**
16 **that are necessary to preserve the life or health of an insured. For**
17 **the purposes of this section, "religious employer" means an**
18 **employer that is a church, convention or association of churches or**
19 **an elementary or secondary school that is controlled, operated or**
20 **principally supported by a church or by a convention or association**
21 **of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that**
22 **qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).】**

23 **b.** The benefits shall be provided to the same extent as for any
24 other outpatient prescription drug under the policy, except no
25 deductible, coinsurance, copayment, or any other cost-sharing
26 requirement on the coverage shall be imposed.

27 **c.** This section shall apply to those policies in which the insurer
28 has reserved the right to change the premium.

29 (cf: P.L.2017, c.241, s.5)

30

31 6. Section 6 of P.L.2005, c. 251 (C.26:2J-4.30) is amended to
32 read as follows:

33 6. **a.** A certificate of authority to establish and operate a health
34 maintenance organization in this State shall not be issued or
35 continued on or after the effective date of this act for a health
36 maintenance organization that provides health care services for
37 outpatient prescription drugs under a contract, unless the health
38 maintenance organization also provides health care services for
39 prescription female contraceptives. For the purposes of this section,
40 "prescription female contraceptives" means any drug or device used
41 for contraception by a female, which is approved by the federal
42 Food and Drug Administration for that purpose, that can **【only】** be
43 purchased in this State with a prescription written by a health care
44 professional licensed or authorized to write prescriptions, and
45 includes, but is not limited to, birth control pills and diaphragms.
46 The coverage provided shall include prescriptions for dispensing
47 contraceptives for:

1 **[a.] (1)** a three-month period for the first dispensing of the
2 contraceptive; and

3 **[b.] (2)** a six-month period for any subsequent dispensing of
4 the same contraceptive, regardless of whether coverage under the
5 contract was in effect at the time of the first dispensing, except that
6 an entity subject to this section may provide coverage for a supply
7 of contraceptives that is for less than a six-month period, if a six-
8 month period would extend beyond the term of the contract.

9 **[A religious employer may request, and a health maintenance**
10 organization shall grant, an exclusion under the contract for the
11 health care services required by this section if the required health
12 care services conflict with the religious employer's bona fide
13 religious beliefs and practices. A religious employer that obtains
14 such an exclusion shall provide written notice thereof to prospective
15 enrollees and enrollees. The provisions of this section shall not be
16 construed as authorizing a health maintenance organization to
17 exclude health care services for prescription drugs that are
18 prescribed for reasons other than contraceptive purposes or for
19 prescription female contraceptives that are necessary to preserve the
20 life or health of an enrollee. For the purposes of this section,
21 "religious employer" means an employer that is a church,
22 convention or association of churches or an elementary or
23 secondary school that is controlled, operated or principally
24 supported by a church or by a convention or association of churches
25 as defined in 26 U.S.C.s.3121(w)(3)(A), and that qualifies as a tax-
26 exempt organization under 26 U.S.C.s.501(c)(3).**]**

27 **b.** The health care services shall be provided to the same extent
28 as for any other outpatient prescription drug under the contract,
29 except no deductible, coinsurance, copayment, or any other cost-
30 sharing requirement on the coverage shall be imposed.

31 **c.** The provisions of this section shall apply to those contracts
32 for health care services by health maintenance organizations under
33 which the right to change the schedule of charges for enrollee
34 coverage is reserved.

35 (cf: P.L.2017, c.241, s.6)

36

37 7. Section 7 of P.L.2005, c.251 (C.17B:27A-7.12) is amended
38 to read as follows:

39 7. **a.** An individual health benefits plan required pursuant to
40 section 3 of P.L.1992, c.161 (C.17B:27A-4) that provides benefits
41 for expenses incurred in the purchase of outpatient prescription
42 drugs shall provide coverage for expenses incurred in the purchase
43 of prescription female contraceptives. For the purposes of this
44 section, "prescription female contraceptives" means any drug or
45 device used for contraception by a female, which is approved by the
46 federal Food and Drug Administration for that purpose, that can
47 **[only]** be purchased in this State with a prescription written by a

1 health care professional licensed or authorized to write
2 prescriptions, and includes, but is not limited to, birth control pills
3 and diaphragms. The coverage provided shall include prescriptions
4 for dispensing contraceptives for:

5 **【a.】** (1) a three-month period for the first dispensing of the
6 contraceptive; and

7 **【b.】** (2) a six-month period for any subsequent dispensing of
8 the same contraceptive, regardless of whether coverage under the
9 contract was in effect at the time of the first dispensing, except that
10 an entity subject to this section may provide coverage for a supply
11 of contraceptives that is for less than a six-month period, if a six-
12 month period would extend beyond the term of the contract.

13 **【A religious employer may request, and a carrier shall grant, an**
14 **exclusion under the health benefits plan for the coverage required**
15 **by this section if the required coverage conflicts with the religious**
16 **employer's bona fide religious beliefs and practices. A religious**
17 **employer that obtains such an exclusion shall provide written notice**
18 **thereof to prospective covered persons and covered persons. The**
19 **provisions of this section shall not be construed as authorizing a**
20 **carrier to exclude coverage for prescription drugs that are**
21 **prescribed for reasons other than contraceptive purposes or for**
22 **prescription female contraceptives that are necessary to preserve the**
23 **life or health of a covered person. For the purposes of this section,**
24 **"religious employer" means an employer that is a church,**
25 **convention or association of churches or an elementary or**
26 **secondary school that is controlled, operated or principally**
27 **supported by a church or by a convention or association of churches**
28 **as defined in 26 U.S.C.s.3121(w)(3)(A), and that qualifies as a tax-**
29 **exempt organization under 26 U.S.C.s.501(c)(3).】**

30 **b.** The benefits shall be provided to the same extent as for any
31 other outpatient prescription drug under the health benefits plan,
32 except no deductible, coinsurance, copayment, or any other cost-
33 sharing requirement on the coverage shall be imposed.

34 **c.** This section shall apply to all individual health benefits
35 plans in which the carrier has reserved the right to change the
36 premium.

37 (cf: P.L.2017, c.241, s.7)

38

39 8. Section 8 of P.L.2005, c.251 (C.17B:27A-19.15) is amended
40 to read as follows:

41 8. **a.** A small employer health benefits plan required pursuant
42 to section 3 of P.L.1992, c.162 (C.17B:27A-19) that provides
43 benefits for expenses incurred in the purchase of outpatient
44 prescription drugs shall provide coverage for expenses incurred in
45 the purchase of prescription female contraceptives. For the
46 purposes of this section, "prescription female contraceptives" means
47 any drug or device used for contraception by a female, which is
48 approved by the federal Food and Drug Administration for that

1 purpose, that can **【only】** be purchased in this State with a
2 prescription written by a health care professional licensed or
3 authorized to write prescriptions, and includes, but is not limited to,
4 birth control pills and diaphragms. The coverage provided shall
5 include prescriptions for dispensing contraceptives for:

6 **【a.】** (1) a three-month period for the first dispensing of the
7 contraceptive; and

8 **【b.】** (2) a six-month period for any subsequent dispensing of
9 the same contraceptive, regardless of whether coverage under the
10 contract was in effect at the time of the first dispensing, except that
11 an entity subject to this section may provide coverage for a supply
12 of contraceptives that is for less than a six-month period, if a six-
13 month period would extend beyond the term of the contract.

14 **【A religious employer may request, and a carrier shall grant, an**
15 **exclusion under the health benefits plan for the coverage required**
16 **by this section if the required coverage conflicts with the religious**
17 **employer's bona fide religious beliefs and practices. A religious**
18 **employer that obtains such an exclusion shall provide written notice**
19 **thereof to prospective covered persons and covered persons. The**
20 **provisions of this section shall not be construed as authorizing a**
21 **carrier to exclude coverage for prescription drugs that are**
22 **prescribed for reasons other than contraceptive purposes or for**
23 **prescription female contraceptives that are necessary to preserve the**
24 **life or health of a covered person. For the purposes of this section,**
25 **"religious employer" means an employer that is a church,**
26 **convention or association of churches or an elementary or**
27 **secondary school that is controlled, operated or principally**
28 **supported by a church or by a convention or association of churches**
29 **as defined in 26 U.S.C.s.3121(w)(3)(A), and that qualifies as a tax-**
30 **exempt organization under 26 U.S.C.s.501(c)(3).】**

31 b. The benefits shall be provided to the same extent as for any
32 other outpatient prescription drug under the health benefits plan,
33 except no deductible, coinsurance, copayment, or any other cost-
34 sharing requirement on the coverage shall be imposed.

35 c. This section shall apply to all small employer health benefits
36 plans in which the carrier has reserved the right to change the
37 premium.

38 (cf: P.L.2017, c.241, s.8)

39

40 9. Section 9 of P.L.2005, c.251 (C.17:48F-13.2) is amended to
41 read as follows:

42 9. a. A prepaid prescription service organization that provides
43 benefits for expenses incurred in the purchase of outpatient
44 prescription drugs under a contract shall provide coverage under
45 every such contract delivered, issued, executed or renewed in this
46 State or approved for issuance or renewal in this State by the
47 Commissioner of Banking and Insurance, on or after the effective

1 date of this act, for expenses incurred in the purchase of
2 prescription female contraceptives. For the purposes of this section,
3 "prescription female contraceptives" means any drug or device used
4 for contraception by a female, which is approved by the federal
5 Food and Drug Administration for that purpose, that can **only** be
6 purchased in this State with a prescription written by a health care
7 professional licensed or authorized to write prescriptions, and
8 includes, but is not limited to, birth control pills and diaphragms.
9 The coverage provided shall include prescriptions for dispensing
10 contraceptives for:

11 **[a.] (1)** a three-month period for the first dispensing of the
12 contraceptive; and

13 **[b.] (2)** a six-month period for any subsequent dispensing of
14 the same contraceptive, regardless of whether coverage under the
15 contract was in effect at the time of the first dispensing, except that
16 an entity subject to this section may provide coverage for a supply
17 of contraceptives that is for less than a six-month period, if a six-
18 month period would extend beyond the term of the contract.

19 **[A religious employer may request, and a prepaid prescription**
20 **service organization shall grant, an exclusion under the contract for**
21 **the coverage required by this section if the required coverage**
22 **conflicts with the religious employer's bona fide religious beliefs**
23 **and practices. A religious employer that obtains such an exclusion**
24 **shall provide written notice thereof to prospective enrollees and**
25 **enrollees. The provisions of this section shall not be construed as**
26 **authorizing a prepaid prescription service organization to exclude**
27 **coverage for prescription drugs that are prescribed for reasons other**
28 **than contraceptive purposes or for prescription female**
29 **contraceptives that are necessary to preserve the life or health of an**
30 **enrollee. For the purposes of this section, "religious employer"**
31 **means an employer that is a church, convention or association of**
32 **churches or an elementary or secondary school that is controlled,**
33 **operated or principally supported by a church or by a convention or**
34 **association of churches as defined in 26 U.S.C.s.3121(w)(3)(A),**
35 **and that qualifies as a tax-exempt organization under 26**
36 **U.S.C.s.501(c)(3).]**

37 **b.** The benefits shall be provided to the same extent as for any
38 other outpatient prescription drug under the contract, except no
39 deductible, coinsurance, copayment, or any other cost-sharing
40 requirement on the coverage shall be imposed.

41 **c.** This section shall apply to those prepaid prescription
42 contracts in which the prepaid prescription service organization has
43 reserved the right to change the premium.

44 (cf: P.L.2017, c.241, s.9)

45

46 10. Section 10 of P.L.2005, c.251 (C.52:14-17.29j) is amended
47 to read as follows:

1 10. a. The State Health Benefits Commission shall ensure that
2 every contract purchased by the commission on or after the
3 effective date of this act that provides benefits for expenses
4 incurred in the purchase of outpatient prescription drugs shall
5 provide benefits for expenses incurred in the purchase of
6 prescription female contraceptives.

7 For the purposes of this section, "prescription female
8 contraceptives" means any drug or device used for contraception by
9 a female, which is approved by the federal Food and Drug
10 Administration for that purpose, that can **[only]** be purchased in
11 this State with a prescription written by a health care professional
12 licensed or authorized to write prescriptions, and includes, but is
13 not limited to, birth control pills and diaphragms. The coverage
14 provided shall include prescriptions for dispensing contraceptives
15 for:

16 **[a.] (1)** a three-month period for the first dispensing of the
17 contraceptive; and

18 **[b.] (2)** a six-month period for any subsequent dispensing of
19 the same contraceptive, regardless of whether coverage under the
20 contract was in effect at the time of the first dispensing, except that
21 an entity subject to this section may provide coverage for a supply
22 of contraceptives that is for less than a six-month period, if a six-
23 month period would extend beyond the term of the contract.

24 b. The contract shall specify that no deductible, coinsurance,
25 copayment, or any other cost-sharing requirement may be imposed
26 on the coverage required pursuant to this section.

27 (cf: P.L.2017, c.241, s.10)

28
29 11. This act shall take effect on the 90th day next following
30 enactment and shall apply to policies or contracts issued or renewed
31 on or after the effective date.

32 33 34 STATEMENT

35
36 This bill amends P.L.2005, c.251, the statute requiring health
37 insurance carriers and the State health benefits programs to cover
38 prescription female contraceptives, by prohibiting insurers from
39 imposing a deductible, coinsurance, copayment, or any other cost-
40 sharing requirement on this coverage.

41 Currently, federal law requires coverage for female
42 contraceptives to be provided without cost sharing in certain
43 circumstances. This bill would expand State law to also require
44 coverage for female contraceptives to be provided without cost
45 sharing. The bill also expands coverage for female contraceptives
46 to include all contraceptives approved by the federal Food and Drug
47 Administration for that purpose that can be purchased in this State
48 with a prescription written by a health care professional.

A5508 ZWICKER, MURPHY

13

1 The bill also removes the exemption in current law for religious
2 employers to provide coverage for female contraceptives if the
3 required coverage conflicts with the religious employer's bona fide
4 religious beliefs and practices.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5508

STATE OF NEW JERSEY

DATED: JUNE 6, 2019

The Assembly Financial Institutions and Insurance Committee reports favorably Assembly Bill No. 5508.

This bill amends P.L.2005, c.251, the statute requiring health insurance carriers and the State health benefits programs to cover prescription female contraceptives, by prohibiting insurers from imposing a deductible, coinsurance, copayment, or any other cost-sharing requirement on this coverage.

Currently, federal law requires coverage for female contraceptives to be provided without cost sharing in certain circumstances. This bill would expand State law to also require coverage for female contraceptives to be provided without cost sharing. The bill also expands coverage for female contraceptives to include all contraceptives approved by the federal Food and Drug Administration for that purpose that can be purchased in this State with a prescription written by a health care professional.

The bill also removes the exemption in current law for religious employers to provide coverage for female contraceptives if the required coverage conflicts with the religious employer's bona fide religious beliefs and practices.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5508

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 13, 2019

The Assembly Appropriations Committee reports favorably Assembly Bill No. 5508, with committee amendments.

This bill amends P.L.2005, c.251, the statute requiring health insurance carriers and the State health benefits programs to cover prescription female contraceptives, by prohibiting insurers from imposing a deductible, coinsurance, copayment, or any other cost-sharing requirement on this coverage.

Currently, federal law requires coverage for female contraceptives to be provided without cost sharing in certain circumstances. This bill would expand State law to also require coverage for female contraceptives to be provided without cost sharing.

As amended, the bill provides that health insurance carriers and the State health benefits programs subject to the bill are required to provide coverage for the certain services, drugs, devices, products, and procedures, including contraceptive drugs, devices and products approved by the United States Food and Drug Administration, subject to certain conditions.

The bill also mandates coverage for:

- (1) Voluntary male and female sterilization.
- (2) Patient education and counseling on contraception.
- (3) Certain services related to the administration and monitoring of drugs, devices, products and services required under the bill.

The bill provides that nothing in bill limits coverage of any additional preventive service for women, as identified or recommended by the United States Preventive Services Task Force or the Health Resources and Services Administration of the United States Department of Health and Human Services pursuant to the provisions of 42 U.S.C. 300gg-13.

The bill requires prepaid prescription service organizations to provide coverage under every contracts for expenses incurred in the purchase of prescription female contraceptives, and the services, drugs, devices, products, and procedures as determined to be required to be covered by the Commissioner of Banking and Insurance pursuant to regulation.

The bill also removes the exemption in current law for religious employers to provide coverage for female contraceptives if the

required coverage conflicts with the religious employer's bona fide religious beliefs and practices.

COMMITTEE AMENDMENTS:

The committee amendments provide that health insurance carriers and the State health benefits programs subject to the bill are required to provide coverage for the certain services, drugs, devices, products, and procedures, including contraceptive drugs, devices and products approved by the United States Food and Drug Administration, subject to certain conditions.

The amendments also mandate coverage for:

- (1) Voluntary male and female sterilization.
- (2) Patient education and counseling on contraception.
- (3) Certain services related to the administration and monitoring of drugs, devices, products and services required under the bill.

The amendments provide that nothing in bill limits coverage of any additional preventive service for women, as identified or recommended by the United States Preventive Services Task Force or the Health Resources and Services Administration of the United States Department of Health and Human Services pursuant to the provisions of 42 U.S.C. 300gg-13.

The amendments require prepaid prescription service organizations to provide coverage under every contracts for expenses incurred in the purchase of prescription female contraceptives, and the services, drugs, devices, products, and procedures as determined to be required to be covered by the Commissioner of Banking and Insurance pursuant to regulation.

FISCAL IMPACT:

The amendments exceed the requirements under the ACA which covered under the State's SHPB and SEHBP plans. Therefore the amendments will increase costs to the SHBP and the SEHBP by an indeterminate amount.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 5508

with Senate Floor Amendments
(Proposed by Senators RUIZ and POU)

ADOPTED: DECEMBER 16, 2019

These amendments provide that:

- 1) the benefits required pursuant to the bill are only required to be provided on an in-network basis; and
- 2) in the case of a high deductible health plan, benefits for male sterilization or male contraceptives must be provided at the lowest deductible and other cost-sharing permitted for a high deductible health plan under section 223(c)(2)(A) of the Internal Revenue Code (26 U.S.C. s.223).

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 5508

STATE OF NEW JERSEY 218th LEGISLATURE

DATED: JUNE 20, 2019

SUMMARY

- Synopsis:** Revises law requiring health benefits coverage for certain contraceptives.
- Type of Impact:** Annual increase in State and local government expenditures.
- Agencies Affected:** Division of Pensions and Benefits in the Department of the Treasury, local government entities, and local boards of education.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost Increase		Indeterminate	
Local Cost Increase		Indeterminate	

- The Office of Legislative Services (OLS) estimates that this bill will result in indeterminate increases in State Health Benefits Program (SHBP) and School Employees' Health Benefits Program (SEHBP) costs to provide full coverage for contraceptives without a prescription for over-the-counter sales that are approved by the United States Federal Drug Administration (USFDA) and to provide full coverage for brand name contraceptive pills with a generic equivalent. Federal law currently requires no-cost share on the part of the member for all contraceptives, but only when the method is prescribed.
- The OLS estimates that costs may increase marginally to provide full coverage for brand name female contraceptive prescriptions with a generic equivalent. Generics and brand name prescription contraceptives without generics are fully covered under the SHBP and the SEHBP. However, brand name prescription contraceptives with generic equivalents are charged the applicable brand name copayment, which is between \$10 and \$21, unless a prescriber believes that the generic equivalent is not appropriate and an exception is requested and granted by the State Health Benefits Commission.
- The OLS estimates that the provision in the bill that requires the SHBP and the SEHBP to provide full coverage for any USFDA-approved over-the-counter contraceptive method

without a prescription may have a moderate effect on costs as this will increase access and therefore demand, increasing costs accordingly.

BILL DESCRIPTION

This bill prohibits the SHBP and the SEHBP from imposing a deductible, coinsurance, copayment, or any other cost-sharing requirement on coverage for prescription female contraceptives. Currently, federal law requires coverage for female contraceptives to be provided without cost sharing when prescribed by a physician. This bill would expand SHBP and SEHBP coverage beyond federal law and require full coverage for female contraceptives to be provided without cost sharing without a prescription for all contraceptive drugs available for over-the-counter sale that are approved by the USFDA. The bill also requires coverage for therapeutic equivalent drugs, voluntary male and female sterilization, contraceptive education and counseling, and monitoring and management of services related to contraceptive drugs, devices, and products.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill will result in indeterminate increases in SHBP and SEHBP costs to provide coverage for contraceptives without a prescription for over-the-counter sales that are approved by the USFDA and to provide full coverage for brand name contraceptive pills with a generic equivalent. Federal law currently requires no-cost share on the part of the member for all contraceptives, but only when the method is prescribed.

Current law requires the State Health Benefits Commission to ensure that every contract purchased by the commission for the SHBP and the SEHBP that provides benefits for expenses incurred in the purchase of outpatient prescription drugs, to also provide benefits for expenses incurred in the purchase of prescription female contraceptives on the same basis as all other prescription drugs. Currently, the only female contraceptive method not fully covered by the SHBP and the SEHBP are brand name contraceptive pills with generic equivalents. These contraceptives require the member to pay a brand name drug copayment that can range between \$10 and \$21. The OLS estimates that costs may increase marginally to provide full coverage for these contraceptives. The provision in the bill that requires the SHBP and the SEHBP to provide full coverage for any USFDA-approved over-the-counter contraceptive method without a prescription may have a moderate effect on costs as this will increase access and therefore demand, increasing costs accordingly.

According to a brief published on May 23, 2019 by the Henry J. Kaiser Family Foundation entitled, Oral Contraceptive Pills, Maryland became the first state to enact a law, effective January 2018, requiring insurers to cover over-the-counter contraceptives without a prescription with the same cost-sharing rules that apply to prescription contraceptives. Since that time, New Mexico, New York, Oregon, and Washington have passed similar laws.

The bill also requires the coverage provided under the SHBP and the SEHBP to provide full coverage for therapeutic equivalents of contraceptive drugs, devices, or products approved by the USFDA; coverage without infringement upon a subscriber's choice of contraception and medical necessity determined by the provider; voluntary male or female sterilization; and patient education, counseling, management, and monitoring of side effects, protocol adherence, device insertion and removal, alternative contraceptives, and follow-up diagnosis and treatment. According to Horizon, all of these requirements are currently provided under the SHBP and SEHBP, thus these provisions will not have a fiscal impact on the programs.

Section: State Government

*Analyst: Kimberly M. Clemmensen
Lead Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 5508

STATE OF NEW JERSEY 218th LEGISLATURE

DATED: JANUARY 14, 2020

SUMMARY

- Synopsis:** Revises law requiring health benefits coverage for certain contraceptives.
- Type of Impact:** Annual increase in State and local government expenditures.
- Agencies Affected:** Division of Pensions and Benefits in the Department of the Treasury, local government entities, and local boards of education.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost Increase		Indeterminate	
Local Cost Increase		Indeterminate	

- The Office of Legislative Services (OLS) estimates that this bill will result in indeterminate increases in State Health Benefits Program (SHBP) and School Employees' Health Benefits Program (SEHBP) costs to provide full coverage for contraceptives without a prescription for over-the-counter sales that are approved by the United States Federal Drug Administration (USFDA) and to provide full coverage for brand name contraceptive pills with a generic equivalent. Federal law currently requires no-cost share on the part of the member for all contraceptives, but only when the method is prescribed.
- The OLS estimates that costs may increase marginally to provide full coverage for brand name female contraceptive prescriptions with a generic equivalent. Generics and brand name prescription contraceptives without generics are fully covered under the SHBP and the SEHBP. However, brand name prescription contraceptives with generic equivalents are charged the applicable brand name copayment, which is between \$10 and \$21, unless a prescriber believes that the generic equivalent is not appropriate and an exception is requested and granted by the State Health Benefits Commission.
- The bill requires full coverage for contraceptives on an in-network basis, which will lessen the potential increase in costs associated with expansion of benefits required under the bill than if the benefits were not limited to in-network services and treatments.

- The provision restricting deductibles and cost sharing for male sterilization or male contraceptives in high deductible plans is not anticipated to have a material impact on costs because there are few members in high deductible plans and demand for these services is low.
- The OLS estimates that the provision in the bill that requires the SHBP and the SEHBP to provide full coverage for any USFDA-approved over-the-counter contraceptive method without a prescription may have a moderate effect on costs as this will increase access and therefore demand, increasing costs accordingly.

BILL DESCRIPTION

This bill prohibits the SHBP and the SEHBP from imposing a deductible, coinsurance, copayment, or any other cost-sharing requirement on coverage for prescription female contraceptives. Currently, federal law requires coverage for female contraceptives to be provided without cost sharing when prescribed by a physician. This bill would expand SHBP and SEHBP coverage beyond federal law and require full coverage for female contraceptives to be provided without cost sharing without a prescription for all contraceptive drugs available for over-the-counter sale that are approved by the USFDA. The bill also requires coverage for therapeutic equivalent drugs, voluntary male and female sterilization, contraceptive education and counseling, and monitoring and management of services related to contraceptive drugs, devices, and products.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill will result in indeterminate increases in SHBP and SEHBP costs to provide coverage for contraceptives without a prescription for over-the-counter sales that are approved by the USFDA and to provide full coverage for brand name contraceptive pills with a generic equivalent. Federal law currently requires no-cost share on the part of the member for all contraceptives, but only when the method is prescribed.

Current law requires the State Health Benefits Commission to ensure that every contract purchased by the commission for the SHBP and the SEHBP that provides benefits for expenses incurred in the purchase of outpatient prescription drugs, to also provide benefits for expenses incurred in the purchase of prescription female contraceptives on the same basis as all other prescription drugs. Currently, the only female contraceptive method not fully covered by the SHBP and the SEHBP are brand name contraceptive pills with generic equivalents. These contraceptives require the member to pay a brand name drug copayment that can range between \$10 and \$21. The OLS estimates that costs may increase marginally to provide full coverage for these contraceptives. The provision in the bill that requires the SHBP and the SEHBP to provide full coverage for any USFDA-approved over-the-counter contraceptive method without a prescription may have a moderate effect on costs as this will increase access and therefore demand, increasing costs accordingly. The bill requires full coverage for contraceptives on an in-network basis, which will lessen the potential increase in costs associated with expansion of benefits

required under the bill than if the benefits were not limited to in-network services and treatments. The provision restricting deductibles and cost sharing for male sterilization or male contraceptives in high deductible plans is not anticipated to have a material impact on costs because there are few members in high deductible plans and demand for these services is low.

According to a brief published on May 23, 2019 by the Henry J. Kaiser Family Foundation entitled, Oral Contraceptive Pills, Maryland became the first state to enact a law, effective January 2018, requiring insurers to cover over-the-counter contraceptives without a prescription with the same cost-sharing rules that apply to prescription contraceptives. Since that time, New Mexico, New York, Oregon, and Washington have passed similar laws.

The bill also requires the coverage provided under the SHBP and the SEHBP to provide full coverage for therapeutic equivalents of contraceptive drugs, devices, or products approved by the USFDA; coverage without infringement upon a subscriber's choice of contraception and medical necessity determined by the provider; voluntary male or female sterilization; and patient education, counseling, management, and monitoring of side effects, protocol adherence, device insertion and removal, alternative contraceptives, and follow-up diagnosis and treatment. According to Horizon, all of these requirements are currently provided under the SHBP and SEHBP, thus these provisions will not have a fiscal impact on the programs.

Section: State Government

*Analyst: Kimberly M. Clemmensen
Lead Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE, No. 3804

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED MAY 30, 2019

Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex)

Senator NELLIE POU

District 35 (Bergen and Passaic)

Co-Sponsored by:

Senator Greenstein

SYNOPSIS

Revises requirements for health benefits coverage of contraceptives.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/28/2019)

1 AN ACT concerning health benefits coverage for contraceptives and
2 amending P.L.2005, c.251.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 1 of P.L.2005, c.251 (C.17:48-6ee) is amended to
8 read as follows:

9 1. a. A hospital service corporation that provides hospital or
10 medical expense benefits for expenses incurred in the purchase of
11 outpatient prescription drugs under a contract shall provide
12 coverage under every such contract delivered, issued, executed or
13 renewed in this State or approved for issuance or renewal in this
14 State by the Commissioner of Banking and Insurance, on or after
15 the effective date of this act, for expenses incurred in the purchase
16 of prescription female contraceptives. For the purposes of this
17 section, "prescription female contraceptives" means any drug or
18 device used for contraception **[by a female]**, which is approved by
19 the federal Food and Drug Administration for that purpose**],** that
20 can only be purchased in this State with a prescription written by a
21 health care professional licensed or authorized to write
22 prescriptions, and includes, but is not limited to, birth control pills
23 and diaphragms**].** The coverage provided shall include
24 prescriptions for dispensing contraceptives for:

25 **[a.]** (1) a three-month period for the first dispensing of the
26 contraceptive; and

27 **[b.]** (2) a six-month period for any subsequent dispensing of the
28 same contraceptive, regardless of whether coverage under the
29 contract was in effect at the time of the first dispensing, except that
30 an entity subject to this section may provide coverage for a supply
31 of contraceptives that is for less than a six-month period, if a six-
32 month period would extend beyond the term of the contract.

33 **[A** religious employer may request, and a hospital service
34 corporation shall grant, an exclusion under the contract for the
35 coverage required by this section if the required coverage conflicts
36 with the religious employer's bona fide religious beliefs and
37 practices. A religious employer that obtains such an exclusion shall
38 provide written notice thereof to prospective subscribers and
39 subscribers. The provisions of this section shall not be construed as
40 authorizing a hospital service corporation to exclude coverage for
41 prescription drugs that are prescribed for reasons other than
42 contraceptive purposes or for prescription female contraceptives
43 that are necessary to preserve the life or health of a subscriber. For
44 the purposes of this section, "religious employer" means an
45 employer that is a church, convention or association of churches or

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 an elementary or secondary school that is controlled, operated or
2 principally supported by a church or by a convention or association
3 of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that
4 qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).】

5 b. The benefits shall be provided to the same extent as for any
6 other outpatient prescription drug under the contract, except no
7 deductible, coinsurance, copayment, or any other cost-sharing
8 requirement on the coverage shall be imposed.

9 c. This section shall apply to those contracts in which the
10 hospital service corporation has reserved the right to change the
11 premium.

12 (cf: P.L.2017, c.241, s.1)

13

14 2. Section 2 of P.L.2005, c.251 (C.17:48A-7bb) is amended to
15 read as follows:

16 2. a. A medical service corporation that provides hospital or
17 medical expense benefits for expenses incurred in the purchase of
18 outpatient prescription drugs under a contract shall provide
19 coverage under every such contract delivered, issued, executed or
20 renewed in this State or approved for issuance or renewal in this
21 State by the Commissioner of Banking and Insurance, on or after
22 the effective date of this act, for expenses incurred in the purchase
23 of prescription female contraceptives. For the purposes of this
24 section, "prescription female contraceptives" means any drug or
25 device used for contraception **【by a female】**, which is approved by
26 the federal Food and Drug Administration for that purpose**【**, that
27 can only be purchased in this State with a prescription written by a
28 health care professional licensed or authorized to write
29 prescriptions, and includes, but is not limited to, birth control pills
30 and diaphragms**】**. The coverage provided shall include
31 prescriptions for dispensing contraceptives for:

32 **【a.】** (1) a three-month period for the first dispensing of the
33 contraceptive; and

34 **【b.】** (2) a six-month period for any subsequent dispensing of the
35 same contraceptive, regardless of whether coverage under the
36 contract was in effect at the time of the first dispensing, except that
37 an entity subject to this section may provide coverage for a supply
38 of contraceptives that is for less than a six-month period, if a six-
39 month period would extend beyond the term of the contract.

40 **【A** religious employer may request, and a medical service
41 corporation shall grant, an exclusion under the contract for the
42 coverage required by this section if the required coverage conflicts
43 with the religious employer's bona fide religious beliefs and
44 practices. A religious employer that obtains such an exclusion shall
45 provide written notice thereof to prospective subscribers and
46 subscribers. The provisions of this section shall not be construed as
47 authorizing a medical service corporation to exclude coverage for

1 prescription drugs that are prescribed for reasons other than
2 contraceptive purposes or for prescription female contraceptives
3 that are necessary to preserve the life or health of a subscriber. For
4 the purposes of this section, "religious employer" means an
5 employer that is a church, convention or association of churches or
6 an elementary or secondary school that is controlled, operated or
7 principally supported by a church or by a convention or association
8 of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that
9 qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).】

10 b. The benefits shall be provided to the same extent as for any
11 other outpatient prescription drug under the contract, except no
12 deductible, coinsurance, copayment, or any other cost-sharing
13 requirement on the coverage shall be imposed.

14 c. This section shall apply to those contracts in which the
15 medical service corporation has reserved the right to change the
16 premium.

17 (cf: P.L.2017, c.241, s.2)

18

19 3. Section 3 of P.L.2005, c.251 (C.17:48E-35.29) is amended
20 to read as follows:

21 3. a. A health service corporation that provides hospital or
22 medical expense benefits for expenses incurred in the purchase of
23 outpatient prescription drugs under a contract shall provide
24 coverage under every such contract delivered, issued, executed or
25 renewed in this State or approved for issuance or renewal in this
26 State by the Commissioner of Banking and Insurance, on or after
27 the effective date of this act, for expenses incurred in the purchase
28 of prescription female contraceptives. For the purposes of this
29 section, "prescription female contraceptives" means any drug or
30 device used for contraception **【by a female】**, which is approved by
31 the federal Food and Drug Administration for that purpose**【**, that
32 can only be purchased in this State with a prescription written by a
33 health care professional licensed or authorized to write
34 prescriptions, and includes, but is not limited to, birth control pills
35 and diaphragms**】**. The coverage provided shall include
36 prescriptions for dispensing contraceptives for:

37 **【a.】** (1) a three-month period for the first dispensing of the
38 contraceptive; and

39 **【b.】** (2) a six-month period for any subsequent dispensing of the
40 same contraceptive, regardless of whether coverage under the
41 contract was in effect at the time of the first dispensing, except that
42 an entity subject to this section may provide coverage for a supply
43 of contraceptives that is for less than a six-month period, if a six-
44 month period would extend beyond the term of the contract.

45 **【A** religious employer may request, and a health service
46 corporation shall grant, an exclusion under the contract for the
47 coverage required by this section if the required coverage conflicts

1 with the religious employer's bona fide religious beliefs and
2 practices. A religious employer that obtains such an exclusion shall
3 provide written notice thereof to prospective subscribers and
4 subscribers. The provisions of this section shall not be construed as
5 authorizing a health service corporation to exclude coverage for
6 prescription drugs that are prescribed for reasons other than
7 contraceptive purposes or for prescription female contraceptives
8 that are necessary to preserve the life or health of a subscriber. For
9 the purposes of this section, "religious employer" means an
10 employer that is a church, convention or association of churches or
11 an elementary or secondary school that is controlled, operated or
12 principally supported by a church or by a convention or association
13 of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that
14 qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3). **】**

15 **b.** The benefits shall be provided to the same extent as for any
16 other outpatient prescription drug under the contract, except no
17 deductible, coinsurance, copayment, or any other cost-sharing
18 requirement on the coverage shall be imposed.

19 **c.** This section shall apply to those contracts in which the
20 health service corporation has reserved the right to change the
21 premium.

22 (cf: P.L.2017, c.241, s.3)

23

24 4. Section 4 of P.L. 2005, c.251 (C.17B:27-46.1ee) is amended
25 to read as follows:

26 4. **a.** A group health insurer that provides hospital or medical
27 expense benefits for expenses incurred in the purchase of outpatient
28 prescription drugs under a policy shall provide coverage under
29 every such policy delivered, issued, executed or renewed in this
30 State or approved for issuance or renewal in this State by the
31 Commissioner of Banking and Insurance, on or after the effective
32 date of this act, for expenses incurred in the purchase of
33 prescription female contraceptives. For the purposes of this section,
34 "prescription female contraceptives" means any drug or device used
35 for contraception **【by a female】**, which is approved by the federal
36 Food and Drug Administration for that purpose**【**, that can only be
37 purchased in this State with a prescription written by a health care
38 professional licensed or authorized to write prescriptions, and
39 includes, but is not limited to, birth control pills and diaphragms**】**.
40 The coverage provided shall include prescriptions for dispensing
41 contraceptives for:

42 **【a.】** (1) a three-month period for the first dispensing of the
43 contraceptive; and

44 **【b.】** (2) a six-month period for any subsequent dispensing of the
45 same contraceptive, regardless of whether coverage under the
46 contract was in effect at the time of the first dispensing, except that
47 an entity subject to this section may provide coverage for a supply

1 of contraceptives that is for less than a six-month period, if a six-
2 month period would extend beyond the term of the contract.

3 **【**A religious employer may request, and an insurer shall grant, an
4 exclusion under the policy for the coverage required by this section
5 if the required coverage conflicts with the religious employer's bona
6 fide religious beliefs and practices. A religious employer that
7 obtains such an exclusion shall provide written notice thereof to
8 prospective insureds and insureds. The provisions of this section
9 shall not be construed as authorizing an insurer to exclude coverage
10 for prescription drugs that are prescribed for reasons other than
11 contraceptive purposes or for prescription female contraceptives
12 that are necessary to preserve the life or health of an insured. For
13 the purposes of this section, "religious employer" means an
14 employer that is a church, convention or association of churches or
15 an elementary or secondary school that is controlled, operated or
16 principally supported by a church or by a convention or association
17 of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that
18 qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3). **】**

19 **b.** The benefits shall be provided to the same extent as for any
20 other outpatient prescription drug under the policy, except no
21 deductible, coinsurance, copayment, or any other cost-sharing
22 requirement on the coverage shall be imposed.

23 **c.** This section shall apply to those policies in which the insurer
24 has reserved the right to change the premium.

25 (cf: P.L.2017, c.241, s.4)

26

27 5. Section 5 of P.L.2005, c.251 (C.17B:26-2.1y) is amended to
28 read as follows:

29 5. **a.** An individual health insurer that provides hospital or
30 medical expense benefits for expenses incurred in the purchase of
31 outpatient prescription drugs under a policy shall provide coverage
32 under every such policy delivered, issued, executed or renewed in
33 this State or approved for issuance or renewal in this State by the
34 Commissioner of Banking and Insurance, on or after the effective
35 date of this act, for expenses incurred in the purchase of
36 prescription female contraceptives. For the purposes of this section,
37 "prescription female contraceptives" means any drug or device used
38 for contraception **【**by a female**】**, which is approved by the federal
39 Food and Drug Administration for that purpose**【**, that can only be
40 purchased in this State with a prescription written by a health care
41 professional licensed or authorized to write prescriptions, and
42 includes, but is not limited to, birth control pills and diaphragms**】**.
43 The coverage provided shall include prescriptions for dispensing
44 contraceptives for:

45 **【a.】** (1) a three-month period for the first dispensing of the
46 contraceptive; and

1 **【b.】** (2) a six-month period for any subsequent dispensing of the
2 same contraceptive, regardless of whether coverage under the
3 contract was in effect at the time of the first dispensing, except that
4 an entity subject to this section may provide coverage for a supply
5 of contraceptives that is for less than a six-month period, if a six-
6 month period would extend beyond the term of the contract.

7 **【A religious employer may request, and an insurer shall grant, an**
8 **exclusion under the policy for the coverage required by this section**
9 **if the required coverage conflicts with the religious employer's bona**
10 **fide religious beliefs and practices. A religious employer that**
11 **obtains such an exclusion shall provide written notice thereof to**
12 **prospective insureds and insureds. The provisions of this section**
13 **shall not be construed as authorizing an insurer to exclude coverage**
14 **for prescription drugs that are prescribed for reasons other than**
15 **contraceptive purposes or for prescription female contraceptives**
16 **that are necessary to preserve the life or health of an insured. For**
17 **the purposes of this section, "religious employer" means an**
18 **employer that is a church, convention or association of churches or**
19 **an elementary or secondary school that is controlled, operated or**
20 **principally supported by a church or by a convention or association**
21 **of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that**
22 **qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).】**

23 **b.** The benefits shall be provided to the same extent as for any
24 other outpatient prescription drug under the policy, except no
25 deductible, coinsurance, copayment, or any other cost-sharing
26 requirement on the coverage shall be imposed.

27 **c.** This section shall apply to those policies in which the insurer
28 has reserved the right to change the premium.

29 (cf: P.L.2017, c.241, s.5)

30

31 6. Section 6 of P.L.2005, c. 251 (C.26:2J-4.30) is amended to
32 read as follows:

33 6. **a.** A certificate of authority to establish and operate a health
34 maintenance organization in this State shall not be issued or
35 continued on or after the effective date of this act for a health
36 maintenance organization that provides health care services for
37 outpatient prescription drugs under a contract, unless the health
38 maintenance organization also provides health care services for
39 prescription female contraceptives. For the purposes of this section,
40 "prescription female contraceptives" means any drug or device used
41 for contraception **【by a female】**, which is approved by the federal
42 Food and Drug Administration for that purpose**【**, that can only be
43 purchased in this State with a prescription written by a health care
44 professional licensed or authorized to write prescriptions, and
45 includes, but is not limited to, birth control pills and diaphragms**】**.
46 The coverage provided shall include prescriptions for dispensing
47 contraceptives for:

1 **【a.】** (1) a three-month period for the first dispensing of the
2 contraceptive; and

3 **【b.】** (2) a six-month period for any subsequent dispensing of the
4 same contraceptive, regardless of whether coverage under the
5 contract was in effect at the time of the first dispensing, except that
6 an entity subject to this section may provide coverage for a supply
7 of contraceptives that is for less than a six-month period, if a six-
8 month period would extend beyond the term of the contract.

9 **【A religious employer may request, and a health maintenance**
10 organization shall grant, an exclusion under the contract for the
11 health care services required by this section if the required health
12 care services conflict with the religious employer's bona fide
13 religious beliefs and practices. A religious employer that obtains
14 such an exclusion shall provide written notice thereof to prospective
15 enrollees and enrollees. The provisions of this section shall not be
16 construed as authorizing a health maintenance organization to
17 exclude health care services for prescription drugs that are
18 prescribed for reasons other than contraceptive purposes or for
19 prescription female contraceptives that are necessary to preserve the
20 life or health of an enrollee. For the purposes of this section,
21 "religious employer" means an employer that is a church,
22 convention or association of churches or an elementary or
23 secondary school that is controlled, operated or principally
24 supported by a church or by a convention or association of churches
25 as defined in 26 U.S.C.s.3121(w)(3)(A), and that qualifies as a tax-
26 exempt organization under 26 U.S.C.s.501(c)(3).**】**

27 b. The health care services shall be provided to the same extent
28 as for any other outpatient prescription drug under the contract,
29 except no deductible, coinsurance, copayment, or any other cost-
30 sharing requirement on the coverage shall be imposed.

31 c. The provisions of this section shall apply to those contracts
32 for health care services by health maintenance organizations under
33 which the right to change the schedule of charges for enrollee
34 coverage is reserved.

35 (cf: P.L.2017, c.241, s.6)

36

37 7. Section 7 of P.L.2005, c.251 (C.17B:27A-7.12) is amended
38 to read as follows:

39 7. a. An individual health benefits plan required pursuant to
40 section 3 of P.L.1992, c.161 (C.17B:27A-4) that provides benefits
41 for expenses incurred in the purchase of outpatient prescription
42 drugs shall provide coverage for expenses incurred in the purchase
43 of prescription female contraceptives. For the purposes of this
44 section, "prescription female contraceptives" means any drug or
45 device used for contraception **【by a female】**, which is approved by
46 the federal Food and Drug Administration for that purpose**【**, that
47 can only be purchased in this State with a prescription written by a

1 health care professional licensed or authorized to write
2 prescriptions, and includes, but is not limited to, birth control pills
3 and diaphragms]. The coverage provided shall include
4 prescriptions for dispensing contraceptives for:

5 **【a.】** (1) a three-month period for the first dispensing of the
6 contraceptive; and

7 **【b.】** (2) a six-month period for any subsequent dispensing of the
8 same contraceptive, regardless of whether coverage under the
9 contract was in effect at the time of the first dispensing, except that
10 an entity subject to this section may provide coverage for a supply
11 of contraceptives that is for less than a six-month period, if a six-
12 month period would extend beyond the term of the contract.

13 **【A religious employer may request, and a carrier shall grant, an**
14 **exclusion under the health benefits plan for the coverage required**
15 **by this section if the required coverage conflicts with the religious**
16 **employer's bona fide religious beliefs and practices. A religious**
17 **employer that obtains such an exclusion shall provide written notice**
18 **thereof to prospective covered persons and covered persons. The**
19 **provisions of this section shall not be construed as authorizing a**
20 **carrier to exclude coverage for prescription drugs that are**
21 **prescribed for reasons other than contraceptive purposes or for**
22 **prescription female contraceptives that are necessary to preserve the**
23 **life or health of a covered person. For the purposes of this section,**
24 **"religious employer" means an employer that is a church,**
25 **convention or association of churches or an elementary or**
26 **secondary school that is controlled, operated or principally**
27 **supported by a church or by a convention or association of churches**
28 **as defined in 26 U.S.C.s.3121(w)(3)(A), and that qualifies as a tax-**
29 **exempt organization under 26 U.S.C.s.501(c)(3).】**

30 **b.** The benefits shall be provided to the same extent as for any
31 other outpatient prescription drug under the health benefits plan,
32 **except no deductible, coinsurance, copayment, or any other cost-**
33 **sharing requirement on the coverage shall be imposed.**

34 **c.** This section shall apply to all individual health benefits
35 plans in which the carrier has reserved the right to change the
36 premium.

37 (cf: P.L.2017, c.241, s.7)

38

39 8. Section 8 of P.L.2005, c.251 (C.17B:27A-19.15) is amended
40 to read as follows:

41 8. **a.** A small employer health benefits plan required pursuant
42 to section 3 of P.L.1992, c.162 (C.17B:27A-19) that provides
43 benefits for expenses incurred in the purchase of outpatient
44 prescription drugs shall provide coverage for expenses incurred in
45 the purchase of prescription female contraceptives. For the
46 purposes of this section, "prescription female contraceptives" means
47 any drug or device used for contraception **【by a female】**, which is

1 approved by the federal Food and Drug Administration for that
2 purpose], that can only be purchased in this State with a
3 prescription written by a health care professional licensed or
4 authorized to write prescriptions, and includes, but is not limited to,
5 birth control pills and diaphragms]. The coverage provided shall
6 include prescriptions for dispensing contraceptives for:

7 **【a.】** (1) a three-month period for the first dispensing of the
8 contraceptive; and

9 **【b.】** (2) a six-month period for any subsequent dispensing of the
10 same contraceptive, regardless of whether coverage under the
11 contract was in effect at the time of the first dispensing, except that
12 an entity subject to this section may provide coverage for a supply
13 of contraceptives that is for less than a six-month period, if a six-
14 month period would extend beyond the term of the contract.

15 **【A religious employer may request, and a carrier shall grant, an**
16 **exclusion under the health benefits plan for the coverage required**
17 **by this section if the required coverage conflicts with the religious**
18 **employer's bona fide religious beliefs and practices. A religious**
19 **employer that obtains such an exclusion shall provide written notice**
20 **thereof to prospective covered persons and covered persons. The**
21 **provisions of this section shall not be construed as authorizing a**
22 **carrier to exclude coverage for prescription drugs that are**
23 **prescribed for reasons other than contraceptive purposes or for**
24 **prescription female contraceptives that are necessary to preserve the**
25 **life or health of a covered person. For the purposes of this section,**
26 **"religious employer" means an employer that is a church,**
27 **convention or association of churches or an elementary or**
28 **secondary school that is controlled, operated or principally**
29 **supported by a church or by a convention or association of churches**
30 **as defined in 26 U.S.C.s.3121(w)(3)(A), and that qualifies as a tax-**
31 **exempt organization under 26 U.S.C.s.501(c)(3).】**

32 b. The benefits shall be provided to the same extent as for any
33 other outpatient prescription drug under the health benefits plan,
34 except no deductible, coinsurance, copayment, or any other cost-
35 sharing requirement on the coverage shall be imposed.

36 c. This section shall apply to all small employer health benefits
37 plans in which the carrier has reserved the right to change the
38 premium.

39 (cf: P.L.2017, c.241, s.8)

40
41 9. Section 9 of P.L.2005, c.251 (C.17:48F-13.2) is amended to
42 read as follows:

43 9. a. A prepaid prescription service organization that provides
44 benefits for expenses incurred in the purchase of outpatient
45 prescription drugs under a contract shall provide coverage under
46 every such contract delivered, issued, executed or renewed in this
47 State or approved for issuance or renewal in this State by the

1 Commissioner of Banking and Insurance, on or after the effective
2 date of this act, for expenses incurred in the purchase of
3 prescription female contraceptives. For the purposes of this section,
4 "prescription female contraceptives" means any drug or device used
5 for contraception **【by a female】**, which is approved by the federal
6 Food and Drug Administration for that purpose**【**, that can only be
7 purchased in this State with a prescription written by a health care
8 professional licensed or authorized to write prescriptions, and
9 includes, but is not limited to, birth control pills and diaphragms**】**.
10 The coverage provided shall include prescriptions for dispensing
11 contraceptives for:

12 **【a.】** (1) a three-month period for the first dispensing of the
13 contraceptive; and

14 **【b.】** (2) a six-month period for any subsequent dispensing of the
15 same contraceptive, regardless of whether coverage under the
16 contract was in effect at the time of the first dispensing, except that
17 an entity subject to this section may provide coverage for a supply
18 of contraceptives that is for less than a six-month period, if a six-
19 month period would extend beyond the term of the contract.

20 **【A religious employer may request, and a prepaid prescription
21 service organization shall grant, an exclusion under the contract for
22 the coverage required by this section if the required coverage
23 conflicts with the religious employer's bona fide religious beliefs
24 and practices. A religious employer that obtains such an exclusion
25 shall provide written notice thereof to prospective enrollees and
26 enrollees. The provisions of this section shall not be construed as
27 authorizing a prepaid prescription service organization to exclude
28 coverage for prescription drugs that are prescribed for reasons other
29 than contraceptive purposes or for prescription female
30 contraceptives that are necessary to preserve the life or health of an
31 enrollee. For the purposes of this section, "religious employer"
32 means an employer that is a church, convention or association of
33 churches or an elementary or secondary school that is controlled,
34 operated or principally supported by a church or by a convention or
35 association of churches as defined in 26 U.S.C.s.3121(w)(3)(A),
36 and that qualifies as a tax-exempt organization under 26
37 U.S.C.s.501(c)(3).】**

38 b. The benefits shall be provided to the same extent as for any
39 other outpatient prescription drug under the contract, except no
40 deductible, coinsurance, copayment, or any other cost-sharing
41 requirement on the coverage shall be imposed.

42 c. This section shall apply to those prepaid prescription
43 contracts in which the prepaid prescription service organization has
44 reserved the right to change the premium.

45 (cf: P.L.2017, c.241, s.9)

1 10. Section 10 of P.L.2005, c.251 (C.52:14-17.29j) is amended
2 to read as follows:

3 10. a. The State Health Benefits Commission shall ensure that
4 every contract purchased by the commission on or after the
5 effective date of this act that provides benefits for expenses
6 incurred in the purchase of outpatient prescription drugs shall
7 provide benefits for expenses incurred in the purchase of
8 prescription female contraceptives.

9 For the purposes of this section, "prescription female
10 contraceptives" means any drug or device used for contraception
11 **【by a female】**, which is approved by the federal Food and Drug
12 Administration for that purpose**【**, that can only be purchased in this
13 State with a prescription written by a health care professional
14 licensed or authorized to write prescriptions, and includes, but is
15 not limited to, birth control pills and diaphragms**】**. The coverage
16 provided shall include prescriptions for dispensing contraceptives
17 for:

18 **【a.】** (1) a three-month period for the first dispensing of the
19 contraceptive; and

20 **【b.】** (2) a six-month period for any subsequent dispensing of the
21 same contraceptive, regardless of whether coverage under the
22 contract was in effect at the time of the first dispensing, except that
23 an entity subject to this section may provide coverage for a supply
24 of contraceptives that is for less than a six-month period, if a six-
25 month period would extend beyond the term of the contract.

26 b. The contract shall specify that no deductible, coinsurance,
27 copayment, or any other cost-sharing requirement may be imposed
28 on the coverage required pursuant to this section.

29 (cf: P.L.2017, c.241, s.10)

30
31 11. This act shall take effect on the 90th day next following
32 enactment and shall apply to policies or contracts issued or renewed
33 on or after the effective date.

34

35

36

STATEMENT

37

38 This bill amends P.L.2005, c.251, the statute requiring health
39 insurance carriers and the State health benefits programs to cover
40 prescription female contraceptives, by prohibiting insurers from
41 imposing a deductible, coinsurance, copayment, or any other cost-
42 sharing requirement on this coverage.

43 Currently, federal law requires coverage for female
44 contraceptives to be provided without cost sharing in certain
45 circumstances. This bill would expand State law to also require
46 coverage for female contraceptives to be provided without cost
47 sharing. The bill also expands coverage for female contraceptives

1 to include all contraceptives approved by the federal Food and Drug
2 Administration for that purpose.

3 The bill also removes the exemption in current law for religious
4 employers to provide coverage for female contraceptives if the
5 required coverage conflicts with the religious employer's bona fide
6 religious beliefs and practices.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 3804

STATE OF NEW JERSEY

DATED: JUNE 3, 2019

The Senate Commerce Committee reports favorably Senate Bill No. 3804.

This bill amends P.L.2005, c.251, the statute requiring health insurance carriers and the State health benefits programs to cover prescription female contraceptives, by prohibiting insurers from imposing a deductible, coinsurance, copayment, or any other cost-sharing requirement on this coverage.

Currently, federal law requires coverage for female contraceptives to be provided without cost sharing in certain circumstances. This bill would expand State law to also require coverage for female contraceptives to be provided without cost sharing. The bill also expands coverage for female contraceptives to include all contraceptives approved by the federal Food and Drug Administration for that purpose.

The bill also removes the exemption in current law for religious employers to provide coverage for female contraceptives if the required coverage conflicts with the religious employer's bona fide religious beliefs and practices.

STATEMENT TO
SENATE, No. 3804

with Senate Floor Amendments
(Proposed by Senator RUIZ)

ADOPTED: JUNE 27, 2019

The amendments provide that health insurance carriers and the State health benefits programs subject to the bill are required to provide coverage for the certain services, drugs, devices, products, and procedures, including contraceptive drugs, devices and products approved by the United States Food and Drug Administration, subject to certain conditions.

The amendments also mandate coverage for:

- (1) Voluntary male and female sterilization.
- (2) Patient education and counseling on contraception.
- (3) Certain services related to the administration and monitoring of drugs, devices, products and services required under the bill.

The amendments provide that nothing in bill limits coverage of any additional preventive service for women, as identified or recommended by the United States Preventive Services Task Force or the Health Resources and Services Administration of the United States Department of Health and Human Services pursuant to the provisions of 42 U.S.C. 300gg-13.

The amendments require prepaid prescription service organizations to provide coverage under every contract for expenses incurred in the purchase of prescription female contraceptives, and the services, drugs, devices, products, and procedures as determined to be required to be covered by the Commissioner of Banking and Insurance pursuant to regulation.

STATEMENT TO
[First Reprint]
SENATE, No. 3804

with Senate Floor Amendments
(Proposed by Senators RUIZ and POU)

ADOPTED: DECEMBER 16, 2019

These amendments provide that:

- 1) the benefits required pursuant to the bill are only required to be provided on an in-network basis; and
- 2) in the case of a high deductible health plan, benefits for male sterilization or male contraceptives must be provided at the lowest deductible and other cost-sharing permitted for a high deductible health plan under section 223(c)(2)(A) of the Internal Revenue Code (26 U.S.C. s.223).

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 3804 STATE OF NEW JERSEY 218th LEGISLATURE

DATED: NOVEMBER 26, 2019

SUMMARY

- Synopsis:** Revises law requiring health benefits coverage for certain contraceptives.
- Type of Impact:** Annual increase in State and local government expenditures.
- Agencies Affected:** Division of Pensions and Benefits in the Department of the Treasury, local government entities, and local boards of education.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost Increase		Indeterminate	
Local Cost Increase		Indeterminate	

- The Office of Legislative Services (OLS) estimates that this bill will result in indeterminate increases in State Health Benefits Program (SHBP) and School Employees' Health Benefits Program (SEHBP) costs to provide full coverage for contraceptives without a prescription for over-the-counter sales that are approved by the United States Federal Drug Administration (USFDA) and to provide full coverage for brand name contraceptive pills with a generic equivalent. Federal law currently requires no-cost share on the part of the member for all contraceptives, but only when the method is prescribed.
- The OLS estimates that costs may increase marginally to provide full coverage for brand name female contraceptive prescriptions with a generic equivalent. Generics and brand name prescription contraceptives without generics are fully covered under the SHBP and the SEHBP. However, brand name prescription contraceptives with generic equivalents are charged the applicable brand name copayment, which is between \$10 and \$21, unless a prescriber believes that the generic equivalent is not appropriate and an exception is requested and granted by the State Health Benefits Commission.
- The OLS estimates that the provision in the bill that requires the SHBP and the SEHBP to provide full coverage for any USFDA-approved over-the-counter contraceptive method

without a prescription may have a moderate effect on costs as this will increase access and therefore demand, increasing costs accordingly.

BILL DESCRIPTION

This bill prohibits the SHBP and the SEHBP from imposing a deductible, coinsurance, copayment, or any other cost-sharing requirement on coverage for prescription female contraceptives. Currently, federal law requires coverage for female contraceptives to be provided without cost sharing when prescribed by a physician. This bill would expand SHBP and SEHBP coverage beyond federal law and require full coverage for female contraceptives to be provided without cost sharing without a prescription for all contraceptive drugs available for over-the-counter sale that are approved by the USFDA. The bill also requires coverage for therapeutic equivalent drugs, voluntary male and female sterilization, contraceptive education and counseling, and monitoring and management of services related to contraceptive drugs, devices, and products.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill will result in indeterminate increases in SHBP and SEHBP costs to provide coverage for contraceptives without a prescription for over-the-counter sales that are approved by the USFDA and to provide full coverage for brand name contraceptive pills with a generic equivalent. Federal law currently requires no-cost share on the part of the member for all contraceptives, but only when the method is prescribed.

Current law requires the State Health Benefits Commission to ensure that every contract purchased by the commission for the SHBP and the SEHBP that provides benefits for expenses incurred in the purchase of outpatient prescription drugs, to also provide benefits for expenses incurred in the purchase of prescription female contraceptives on the same basis as all other prescription drugs. Currently, the only female contraceptive method not fully covered by the SHBP and the SEHBP are brand name contraceptive pills with generic equivalents. These contraceptives require the member to pay a brand name drug copayment that can range between \$10 and \$21. The OLS estimates that costs may increase marginally to provide full coverage for these contraceptives. The provision in the bill that requires the SHBP and the SEHBP to provide full coverage for any USFDA-approved over-the-counter contraceptive method without a prescription may have a moderate effect on costs as this will increase access and therefore demand, increasing costs accordingly.

According to a brief published on May 23, 2019 by the Henry J. Kaiser Family Foundation entitled, Oral Contraceptive Pills, Maryland became the first state to enact a law, effective January 2018, requiring insurers to cover over-the-counter contraceptives without a prescription with the same cost-sharing rules that apply to prescription contraceptives. Since that time, New Mexico, New York, Oregon, and Washington have passed similar laws.

The bill also requires the coverage provided under the SHBP and the SEHBP to provide full coverage for therapeutic equivalents of contraceptive drugs, devices, or products approved by the

USFDA; coverage without infringement upon a subscriber's choice of contraception and medical necessity determined by the provider; voluntary male or female sterilization; and patient education, counseling, management, and monitoring of side effects, protocol adherence, device insertion and removal, alternative contraceptives, and follow-up diagnosis and treatment. According to Horizon, all of these requirements are currently provided under the SHBP and SEHBP, thus these provisions will not have a fiscal impact on the programs.

Section: State Government

*Analyst: Kimberly M. Clemmensen
Lead Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 3804

STATE OF NEW JERSEY 218th LEGISLATURE

DATED: JANUARY 14, 2020

SUMMARY

- Synopsis:** Revises law requiring health benefits coverage for certain contraceptives.
- Type of Impact:** Annual increase in State and local government expenditures.
- Agencies Affected:** Division of Pensions and Benefits in the Department of the Treasury, local government entities, and local boards of education.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost Increase		Indeterminate	
Local Cost Increase		Indeterminate	

- The Office of Legislative Services (OLS) estimates that this bill will result in indeterminate increases in State Health Benefits Program (SHBP) and School Employees' Health Benefits Program (SEHBP) costs to provide full coverage for contraceptives without a prescription for over-the-counter sales that are approved by the United States Federal Drug Administration (USFDA) and to provide full coverage for brand name contraceptive pills with a generic equivalent. Federal law currently requires no-cost share on the part of the member for all contraceptives, but only when the method is prescribed.
- The OLS estimates that costs may increase marginally to provide full coverage for brand name female contraceptive prescriptions with a generic equivalent. Generics and brand name prescription contraceptives without generics are fully covered under the SHBP and the SEHBP. However, brand name prescription contraceptives with generic equivalents are charged the applicable brand name copayment, which is between \$10 and \$21, unless a prescriber believes that the generic equivalent is not appropriate and an exception is requested and granted by the State Health Benefits Commission.

- The bill requires full coverage for contraceptives on an in-network basis, which will lessen the potential increase in costs associated with expansion of benefits required under the bill than if the benefits were not limited to in-network services and treatments.
- The provision restricting deductibles and cost sharing for male sterilization or male contraceptives in high deductible plans is not anticipated to have a material impact on costs because there are few members in high deductible plans and demand for these services is low.
- The OLS estimates that the provision in the bill that requires the SHBP and the SEHBP to provide full coverage for any USFDA-approved over-the-counter contraceptive method without a prescription may have a moderate effect on costs as this will increase access and therefore demand, increasing costs accordingly.

BILL DESCRIPTION

This bill prohibits the SHBP and the SEHBP from imposing a deductible, coinsurance, copayment, or any other cost-sharing requirement on coverage for prescription female contraceptives. Currently, federal law requires coverage for female contraceptives to be provided without cost sharing when prescribed by a physician. This bill would expand SHBP and SEHBP coverage beyond federal law and require full coverage for female contraceptives to be provided without cost sharing without a prescription for all contraceptive drugs available for over-the-counter sale that are approved by the USFDA. The bill also requires coverage for therapeutic equivalent drugs, voluntary male and female sterilization, contraceptive education and counseling, and monitoring and management of services related to contraceptive drugs, devices, and products.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill will result in indeterminate increases in SHBP and SEHBP costs to provide coverage for contraceptives without a prescription for over-the-counter sales that are approved by the USFDA and to provide full coverage for brand name contraceptive pills with a generic equivalent. Federal law currently requires no-cost share on the part of the member for all contraceptives, but only when the method is prescribed.

Current law requires the State Health Benefits Commission to ensure that every contract purchased by the commission for the SHBP and the SEHBP that provides benefits for expenses incurred in the purchase of outpatient prescription drugs, to also provide benefits for expenses incurred in the purchase of prescription female contraceptives on the same basis as all other prescription drugs. Currently, the only female contraceptive method not fully covered by the SHBP and the SEHBP are brand name contraceptive pills with generic equivalents. These contraceptives require the member to pay a brand name drug copayment that can range between

\$10 and \$21. The OLS estimates that costs may increase marginally to provide full coverage for these contraceptives. The provision in the bill that requires the SHBP and the SEHBP to provide full coverage for any USFDA-approved over-the-counter contraceptive method without a prescription may have a moderate effect on costs as this will increase access and therefore demand, increasing costs accordingly. The bill requires full coverage for contraceptives on an in-network basis, which will lessen the potential increase in costs associated with expansion of benefits required under the bill than if the benefits were not limited to in-network services and treatments. The provision restricting deductibles and cost sharing for male sterilization or male contraceptives in high deductible plans is not anticipated to have a material impact on costs because there are few members in high deductible plans and demand for these services is low.

According to a brief published on May 23, 2019 by the Henry J. Kaiser Family Foundation entitled, Oral Contraceptive Pills, Maryland became the first state to enact a law, effective January 2018, requiring insurers to cover over-the-counter contraceptives without a prescription with the same cost-sharing rules that apply to prescription contraceptives. Since that time, New Mexico, New York, Oregon, and Washington have passed similar laws.

The bill also requires the coverage provided under the SHBP and the SEHBP to provide full coverage for therapeutic equivalents of contraceptive drugs, devices, or products approved by the USFDA; coverage without infringement upon a subscriber's choice of contraception and medical necessity determined by the provider; voluntary male or female sterilization; and patient education, counseling, management, and monitoring of side effects, protocol adherence, device insertion and removal, alternative contraceptives, and follow-up diagnosis and treatment. According to Horizon, all of these requirements are currently provided under the SHBP and SEHBP, thus these provisions will not have a fiscal impact on the programs.

Section: State Government

*Analyst: Kimberly M. Clemmensen
Lead Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Governor Murphy Signs Legislative Package Protecting the Affordable Care Act in New Jersey

01/16/2020

TRENTON – Governor Phil Murphy today signed a package of bills to safeguard the provisions of the Affordable Care Act (ACA) in New Jersey. The bills, which will codify into state law the basic protections for health care consumers that are part of the Affordable Care Act, include protections for no-cost preventative care and contraception, prohibit exclusions for pre-existing conditions, allow children to stay on their parents' plan until age 26, and incorporate mental health and maternity care as part of essential benefits, among others. The Governor highlighted the importance of these bills during an armchair discussion with Hackensack Meridian Health Chief Executive Officer Bob Garret.

“At a time when the Affordable Care Act is under siege by the Trump Administration and being challenged in the courts, New Jersey has a responsibility to protect and provide access to high-quality, affordable health care for all of our residents,” **said Governor Murphy**. “I applaud my colleagues in the Legislature for taking the critical steps necessary to ensure that the provisions of the Affordable Health Care Act are codified into state law and for working to make the health of our residents a top priority.”

The Governor signed the following bills into law:

A5500 (Greenwald, Lopez, Lampitt/Pou, Lagana) - Expands rate review process in DOBI for certain individual and small employer health benefits plans.

A5501 (McKeon, Vainieri Huttel, Speight/Pou, Weinberg) - Requires continuation of health benefits dependent coverage until child turns 26 years of age.

A5503 (Reynolds-Jackson, Swain/Vitale, Cryan) - Establishes open enrollment period under Individual Health Coverage Program.

A5504 (Benson, Schaer/Cryan, Diegnan) - Applies 85 percent loss ratio requirement to certain large group health benefits carriers.

A5506 (Tully, Danielsen/Singleton, Diegnan) - Repeals statute authorizing offering of “Basic and Essential” health benefits plans under individual health benefits plans and other statutes concerning basic health plans; makes conforming amendments.

A5507 (McKeon, Conaway, Mukherji/Pou, Ruiz) - Requires health benefits coverage for certain preventive services.

A5508 (Zwicker, Murphy, Sumter/Ruiz, Pou) - Revises law requiring health benefits coverage for certain contraceptives.

A5248 (Conaway, Mukherji, McKeon/Gill, Singleton) - Preserves certain requirements that health insurance plans cover essential health benefits.

S626 (Vitale, Diegnan/Vainieri Huttel, Chiaravalloti, Downey, Danielsen) - Clarifies prohibition on preexisting condition exclusions in health insurance policies.

“It is more than health insurance, it is security. It is the safety you feel in knowing that if something goes wrong you have somewhere to go,” **said Senator Pou**. “While not every New Jerseyan has health insurance coverage, there are a lot more people covered now because of the Affordable Care Act than there were before the landmark legislation led by the Obama administration. This life-saving federal program, however, is currently being attacked by Trump and the Republicans in Congress and I am proud of the Governor and Legislature for

standing up for residents and making the ACA the law of our state, regardless of who is in the White House.”

“With the President trying to do everything he can to destroy the Affordable Care Act, I’m glad the legislature and the administration worked together to ensure that the people who benefitted from the ACA will be protected in New Jersey,” **said Senator Vitale**. “We cannot leave the health and safety of New Jerseyans up to the whims of the oval office. These laws, along with the state health care exchange signed earlier, will go a long way to make sure our state can offer affordable health care to all of our residents.”

“The Affordable Care Act gave millions of people across the country access to health care and protected those with pre-existing conditions from being discriminated against by health insurance companies,” **said Senator Singleton**. “Taking away a person’s health insurance, regardless of whether or not they will be able to find an alternative, is disgraceful. New Jersey is a state that protects its residents, and by strengthening the ACA in this state, we will continue to protect working and middle class families.”

“Contraception was named as one of the top ten public health achievements of the 20th century by the Centers for Disease Control and Prevention. That was twenty years ago, whether or not insurance plans cover contraceptives shouldn’t be a question today,” **said Senator Ruiz**. “It’s a matter of public health and it’s a matter of gender equity. People should have access to birth control and this law will help ensure that they do.”

A5500

“The affordable care act has helped tens of thousands of New Jersey residents gain access to healthcare for themselves and their families,” **said Assemblyman Greenwald**. “With this law, we are keeping healthcare affordable for working families by preventing unreasonable rate hikes for the insured, preserving the substantial progress we’ve made on increasing access to quality healthcare in New Jersey.”

“The Affordable Care Act has changed the lives of many New Jersey families,” **said Assemblywoman Lopez**. “Protecting families against unjustified rate changes is critical to maintaining and expanding access to healthcare in the state for many more residents.”

“This is the next practical step in protecting thousands of New Jerseyans who have been afforded healthcare benefits under the Affordable Care Act,” **said Assemblywoman Lampitt**. “The key is to ensure health insurance remains affordable for all residents by keeping an eye on and preventing unnecessary rate increases.”

A5501

Assemblymembers McKeon, Vainieri Huttle, and Speight issued a joint statement:

“With many college graduates returning home while they look for jobs, there was a steep rise in residents ages 19 -26 without access to healthcare. For those who did have insurance through their parents, the cost became an additional, unexpected burden on families. The Affordable Care Act has significantly helped to reduce the uninsured rate for young adults under the age of 26 by allowing parents to cover them in their own plans without the requirement of a separate premium. Codifying this into New Jersey State law will help families ensure their children, whether they are continuing their education or at home temporarily, are provided for in terms of healthcare.”

A5503

Assemblymembers Reynolds-Jackson and Swain issued the following statement:

“Changes on the federal level of ACA have deliberately shortened the open enrollment period by 50 percent placing consumers at a great disadvantage. There’s less time to research their coverage options and enroll. As New Jersey embarks on the creation of a State-based healthcare exchange, it is critical to ensure open enrollment periods which provide enough time, promotion and access for residents.”

A5504

“The Affordable Care Act was groundbreaking in expanding health insurance coverage for millions of Americans. It is important for our state that we maintain the essential protections of Obamacare for all our families,” **said Assemblyman Benson**. “This new state law will help guarantee the money residents spend on their health insurance overwhelmingly goes to the medical care and services they need.”

“This law allows for continued oversight of health insurance companies so that our state can make sure they are properly applying customers’ payments,” **said Assemblyman Schaer**. “There is no room for frivolous spending when it comes to health; the hard-earned money coming out of our residents’ paychecks for health insurance should go towards actually giving them the treatments, tests, procedures and medications they need.”

A5507

Assemblymembers McKeon, Conaway and Mukherji joint statement:

“Preventive healthcare is critical to helping individuals’ live longer, healthier lives. In the long run, preventive medicine and services helps families’ keep healthcare costs down and avoid potential health problems. These are services every resident relies on for themselves and their children. The Affordable Care Act ensured more residents’ access to preventive care than before. Setting these same standards under the State-based healthcare exchange will continue to protect New Jersey families’ and their access to these critical services.”

A5506

“It’s understandable that the government wanted to encourage Americans to purchase ACA health insurance by initially offering simple and inexpensive plans,” **said Assemblyman Tully**. “However, we now know these ‘Basic and Essential Plans’ simply do not cover the healthcare services many people require, which is why the ACA no longer allows them. In case the ACA is ever dismantled at the federal level, this law will make sure providers in our state do not begin offering these limited plans again.”

“Although some people were drawn to the lower-cost healthcare plans the ACA once provided, many didn’t realize just how limited their coverage would be,” **said Assemblyman Danielsen**. “When it comes to healthcare, the services provided can literally mean the difference between life and death. From high stakes procedures to daily medicine, no one should have to lose their life or experience crushing medical debt due to a lack of coverage. This will help make sure such restrictive plans can never be offered in the future.”

A5508

Assemblymembers Zwicker, Murphy, and Sumter joint statement:

“Federal changes to the Affordable Care Act aimed to jeopardize women’s access to safe, preventive care. This new law will remove those obstacles in New Jersey and preserve the benefits afforded to residents’ under the ACA. With this law, women will continue to have insurance that covers contraception without having to pay out of pocket.”

“Because of the Affordable Care Act, as many as 133 million people – or 51 percent of Americans – who have pre-existing conditions are guaranteed that condition will be covered by their health insurer,” **said Assemblywoman Vainieri Huttle**. “But the ACA has been threatened in the past few years. This new law will safeguard this crucial protection for patients should anything ever happen to the ACA.”

“When the ACA was passed, state law was never changed to include the mandate for coverage of pre-existing conditions,” **said Assemblyman Chiaravalloti**. “This important update sends a clear message that we in New Jersey believe health care is not a privilege, but a right.”

“People with pre-existing conditions had their lives changed when the Affordable Care Act became law in 2010,” **said Assemblywoman Downey**. “For the first time, they could not be denied coverage by an insurance company because of their conditions, from diabetes to allergies to cancer. We cannot go back to a world where people had less access to critical medications or treatments because of poor insurance coverage. With this law, we ensure that will never happen in New Jersey.”

“No one should ever be penalized for having a medical condition,” **said Assemblyman Danielsen**. “The ACA paved the way for Americans to begin seeing what was possible when they had access to coverage for pre-existing conditions. So many people now have far better quality of life as a result, and that’s something we will fight to protect and guarantee for all New Jersey residents.”

A5248

“As a physician, I firmly believe that access to health care is a right, not a privilege,” **said Assemblyman Conaway**. “We took a tremendous step forward toward securing that right for all Americans under the Affordable Care Act. The legislation signed today will enshrine the essential health benefits and guiding principles of the ACA into State law, so that New Jerseyans will continue receiving the same benefits if the ACA were ever struck down.”

“We hear stories far too often of patients facing discrimination because of their age or disability,” **said Assemblyman Mukherji**. “No one should be penalized or taken advantage of for having a health condition. This is the law of the land nationwide, and we’ve now reaffirmed these values here in New Jersey.”

“Essential health benefits are exactly that: essential,” **said Assemblyman McKeon**. “Our children need vision and oral care; our new mothers need maternity care; and at any moment, anyone may need emergency services. I’m proud to live in a state that values the health and wellbeing of its residents, so much that it guarantees certain protections under the law.”