

STATE OF NEW YORK

3543

2019-2020 Regular Sessions

IN SENATE

February 8, 2019

Introduced by Sen. SALAZAR -- read twice and ordered printed, and when printed to be committed to the Committee on Women's Issues

AN ACT to amend the insurance law, in relation to the definition of over the counter contraceptive products and voluntary sterilization procedures

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subparagraph (A) of paragraph 16 of subsection (1) of
2 section 3221 of the insurance law, as amended by a chapter of the laws
3 of 2019 amending the insurance law and the social services law, relating
4 to requiring health insurance policies to include coverage of all
5 FDA-approved contraceptive drugs, devices, and products, as well as
6 voluntary sterilization procedures, contraceptive education and coun-
7 seling, and related follow up services and prohibiting a health insur-
8 ance policy from imposing any cost-sharing requirements or other
9 restrictions or delays with respect to this coverage, as proposed in
10 legislative bills numbers S. 659-A and A. 585-A, is amended and a new
11 subparagraph (H) is added to read as follows:

12 (A) Every group or blanket policy that provides medical, major
13 medical, or similar comprehensive-type coverage that is issued, amended,
14 renewed, effective or delivered on or after January first, two thousand
15 twenty, shall provide coverage for all of the following services and
16 contraceptive methods:

17 (1) All FDA-approved contraceptive drugs, devices, and other products.
18 This includes all FDA-approved over-the-counter contraceptive drugs,
19 devices, and products as prescribed or as otherwise authorized under
20 state or federal law. The following applies to this coverage:

21 (a) where the FDA has approved one or more therapeutic and pharmaceu-
22 tical equivalent, as defined by the FDA, versions of a contraceptive
23 drug, device, or product, a group or blanket policy is not required to
24 include all such therapeutic and pharmaceutical equivalent versions in

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 its formulary, so long as at least one is included and covered without
2 cost-sharing and in accordance with this paragraph;

3 (b) if the covered therapeutic and pharmaceutical equivalent versions
4 of a drug, device, or product are not available or are deemed medically
5 inadvisable a group or blanket policy shall provide coverage for an
6 alternate therapeutic and pharmaceutical equivalent version of the
7 contraceptive drug, device, or product without cost-sharing. If the
8 attending health care provider, in his or her reasonable professional
9 judgment, determines that the use of a non-covered therapeutic or phar-
10 maceutical equivalent of a drug, device, or product is warranted, the
11 health care provider's determination shall be final. The superintendent
12 shall promulgate regulations establishing a process, including time-
13 frames, for an insured, an insured's designee or an insured's health
14 care provider to request coverage of a non-covered contraceptive drug,
15 device, or product. Such regulations shall include a requirement that
16 insurers use an exception form that shall meet criteria established by
17 the superintendent;

18 (c) this coverage shall include emergency contraception without cost-
19 sharing when provided pursuant to a prescription or order under section
20 sixty-eight hundred thirty-one of the education law or when lawfully
21 provided over the counter; and

22 (d) this coverage must allow for the dispensing of up to twelve months
23 worth of a contraceptive at one time;

24 (2) Voluntary sterilization procedures; provided, however, until Janu-
25 ary first of the year following the date that vasectomies are not an
26 essential health benefit that are required to be covered pursuant to 42
27 U.S.C. § 18022, the term "voluntary sterilization procedures" for small
28 group policies shall be defined as those procedures identified in the
29 comprehensive guidelines supported by the health resources and services
30 administration as of January twenty-first, two thousand nineteen;

31 (3) Patient education and counseling on contraception; and

32 (4) Follow-up services related to the drugs, devices, products, and
33 procedures covered under this paragraph, including, but not limited to,
34 management of side effects, counseling for continued adherence, and
35 device insertion and removal.

36 (H) For purposes of this paragraph, over the counter contraceptive
37 products shall mean those products provided for in comprehensive guide-
38 lines supported by the health resources and services administration as
39 of January twenty-first, two thousand nineteen.

40 § 2. Paragraph 1 of subsection (cc) of section 4303 of the insurance
41 law, as amended by a chapter of the laws of 2019 amending the insurance
42 law and social services law, relating to requiring health insurance
43 policies to include coverage of all FDA-approved contraceptive drugs,
44 devices, and products, as well as voluntary sterilization procedures,
45 contraceptive education and counseling, and related follow up services
46 and prohibiting a health insurance policy from imposing any cost-sharing
47 requirements or other restrictions or delays with respect to this cover-
48 age, as proposed in legislative bills numbers S. 659-A and A. 585-A, is
49 amended and a new paragraph 8 is added as follows:

50 (1) Every contract that provides medical, major medical, or similar
51 comprehensive type coverage that is issued, amended, renewed, effective
52 or delivered on or after January first, two thousand twenty, shall
53 provide coverage for all of the following services and contraceptive
54 methods:

55 (A) All FDA-approved contraceptive drugs, devices, and other products.
56 This includes all FDA-approved over-the-counter contraceptive drugs,

1 devices, and products as prescribed or as otherwise authorized under
2 state or federal law. The following applies to this coverage:

3 (i) where the FDA has approved one or more therapeutic and pharmaceu-
4 tical equivalent, as defined by the FDA, versions of a contraceptive
5 drug, device, or product, a contract is not required to include all such
6 therapeutic and pharmaceutical equivalent versions in its formulary, so
7 long as at least one is included and covered without cost-sharing and in
8 accordance with this subsection;

9 (ii) if the covered therapeutic and pharmaceutical equivalent versions
10 of a drug, device, or product are not available or are deemed medically
11 inadvisable a contract shall provide coverage for an alternate therapeu-
12 tic and pharmaceutical equivalent version of the contraceptive drug,
13 device, or product without cost-sharing. If the attending health care
14 provider, in his or her reasonable professional judgment, determines
15 that the use of a non-covered therapeutic or pharmaceutical equivalent
16 of a drug, device, or product is warranted, the health care provider's
17 determination shall be final. The superintendent shall promulgate regu-
18 lations establishing a process, including timeframes, for an insured, an
19 insured's designee or an insured's health care provider to request
20 coverage of a non-covered contraceptive drug, device, or product. Such
21 regulations shall include a requirement that insurers use an exception
22 form that shall meet criteria established by the superintendent;

23 (iii) this coverage shall include emergency contraception without
24 cost-sharing when provided pursuant to a prescription or order under
25 section sixty-eight hundred thirty-one of the education law or when
26 lawfully provided over the counter; and

27 (iv) this coverage must allow for the dispensing of up to twelve
28 months worth of a contraceptive at one time;

29 (B) Voluntary sterilization procedures; provided, however, until Janu-
30 ary first of the year following the date that vasectomies are not an
31 essential health benefit that are required to be covered pursuant to 42
32 U.S.C. § 18022, the term "voluntary sterilization procedures" for indi-
33 vidual and small group policies shall be defined as those procedures
34 identified in the comprehensive guidelines supported by the health
35 resources and services administration as of January twenty-first, two
36 thousand nineteen;

37 (C) Patient education and counseling on contraception; and

38 (D) Follow-up services related to the drugs, devices, products, and
39 procedures covered under this subsection, including, but not limited to,
40 management of side effects, counseling for continued adherence, and
41 device insertion and removal.

42 (8) For purposes of this subsection, over the counter contraceptive
43 products shall mean those products provided for in comprehensive guide-
44 lines supported by the health resources and services administration as
45 of January twenty-first, two thousand nineteen.

46 § 3. Clause (v) of subparagraph (E) of paragraph 17 of subsection (i)
47 of section 3216 of the insurance law, as added by a chapter of the laws
48 of 2019 amending the insurance law and the social services law, relating
49 to requiring health insurance policies to include coverage of all
50 FDA-approved contraceptive drugs, devices, and products, as well as
51 voluntary sterilization procedures, contraceptive education and coun-
52 seling, and related follow up services and prohibiting a health insur-
53 ance policy from imposing any cost-sharing requirements or other
54 restrictions or delays with respect to this coverage, as proposed in
55 legislative bills numbers S. 659-A and A. 585-A, is amended to read as
56 follows:

1 (v) all FDA-approved contraceptive drugs, devices, and other products,
2 including all over-the-counter contraceptive drugs, devices, and
3 products as prescribed or as otherwise authorized under state or federal
4 law; voluntary sterilization procedures; provided, however, until January
5 first of the year following the date that vasectomies are not an
6 essential health benefit that are required to be covered pursuant to 42
7 U.S.C. § 18022, the term "voluntary sterilization procedures" for indi-
8 vidual policies shall be defined as those procedures identified in the
9 comprehensive guidelines supported by the health resources and services
10 administration as of January twenty-first, two thousand nineteen;
11 patient education and counseling on contraception; and follow-up
12 services related to the drugs, devices, products, and procedures covered
13 under this clause, including, but not limited to, management of side
14 effects, counseling for continued adherence, and device insertion and
15 removal. Except as otherwise authorized under this clause, a contract
16 shall not impose any restrictions or delays on the coverage required
17 under this clause. However, where the FDA has approved one or more ther-
18 apeutic and pharmaceutical equivalent, as defined by the FDA, versions
19 of a contraceptive drug, device, or product, a contract is not required
20 to include all such therapeutic and pharmaceutical equivalent versions
21 in its formulary, so long as at least one is included and covered with-
22 out cost-sharing and in accordance with this clause. If the covered
23 therapeutic and pharmaceutical equivalent versions of a drug, device, or
24 product are not available or are deemed medically inadvisable a contract
25 shall provide coverage for an alternate therapeutic and pharmaceutical
26 equivalent version of the contraceptive drug, device, or product without
27 cost-sharing. (a) This coverage shall include emergency contraception
28 without cost sharing when provided pursuant to a prescription, or order
29 under section sixty-eight hundred thirty-one of the education law or
30 when lawfully provided over-the-counter. (b) If the attending health
31 care provider, in his or her reasonable professional judgment, deter-
32 mines that the use of a non-covered therapeutic or pharmaceutical equiv-
33 alent of a drug, device, or product is warranted, the health care
34 provider's determination shall be final. The superintendent shall
35 promulgate regulations establishing a process, including timeframes, for
36 an insured, an insured's designee or an insured's health care provider
37 to request coverage of a non-covered contraceptive drug, device, or
38 product. Such regulations shall include a requirement that insurers use
39 an exception form that shall meet criteria established by the super-
40 intendent. (c) This coverage must allow for the dispensing of up to
41 twelve months worth of a contraceptive at one time. (d) For purposes of
42 this clause, over-the-counter contraceptive products shall mean those
43 products provided for in comprehensive guidelines supported by the
44 health resources and services administration as of January twenty-first,
45 two thousand nineteen.

46 § 4. This act shall take effect on the same date and in the same
47 manner as a chapter of the laws of 2019 amending the insurance law and
48 the social services law, relating to requiring health insurance policies
49 to include coverage of all FDA-approved contraceptive drugs, devices,
50 and products, as well as voluntary sterilization procedures, contracep-
51 tive education and counseling, and related follow up services and
52 prohibiting a health insurance policy from imposing any cost-sharing
53 requirements or other restrictions or delays with respect to this cover-
54 age, as proposed in legislative bills numbers S. 659-A and A. 585-A,
55 takes effect.