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:

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

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

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

(a) where the FDA has approved one or more therapeutic and pharmaceutical equivalent, as defined by the FDA, versions of a contraceptive drug, device, or product, a group or blanket policy is not required to 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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its formulary, so long as at least one is included and covered without cost-sharing and in accordance with this paragraph;

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

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

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

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

(3) Patient education and counseling on contraception; and

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

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

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

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

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

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

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

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

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

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

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

(C) Patient education and counseling on contraception; and

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

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

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

(v) all FDA-approved contraceptive drugs, devices, and other products, including all over-the-counter contraceptive drugs, devices, and products as prescribed or as otherwise authorized under state or federal law; voluntary sterilization procedures**; provided, however, until January first of the year following the date that vasectomies are not an essential health benefit that are required to be covered pursuant to 42 U.S.C. § 18022, the term "voluntary sterilization procedures" for individual policies shall be defined as those procedures identified in the comprehensive guidelines supported by the health resources and services administration as of January twenty-first, two thousand nineteen**; patient education and counseling on contraception; and follow-up services related to the drugs, devices, products, and procedures covered under this clause, including, but not limited to, management of side effects, counseling for continued adherence, and device insertion and removal. Except as otherwise authorized under this clause, a contract shall not impose any restrictions or delays on the coverage required under this clause. However, where the FDA has approved one or more therapeutic and pharmaceutical equivalent, as defined by the FDA, versions of a contraceptive drug, device, or product, a contract is not required to include all such therapeutic and pharmaceutical equivalent versions in its formulary, so long as at least one is included and covered without cost-sharing and in accordance with this clause. If the covered therapeutic and pharmaceutical equivalent versions of a drug, device, or product are not available or are deemed medically inadvisable a contract shall provide coverage for an alternate therapeutic and pharmaceutical equivalent version of the contraceptive drug, device, or product without cost-sharing. (a) This coverage shall include emergency contraception without cost sharing when provided pursuant to a prescription, or order under section sixty-eight hundred thirty-one of the education law or when lawfully provided over-the-counter. (b) If the attending health care provider, in his or her reasonable professional judgment, determines that the use of a non-covered therapeutic or pharmaceutical equivalent of a drug, device, or product is warranted, the health care provider's determination shall be final. The superintendent shall promulgate regulations establishing a process, including timeframes, for an insured, an insured's designee or an insured's health care provider to request coverage of a non-covered contraceptive drug, device, or product. Such regulations shall include a requirement that insurers use an exception form that shall meet criteria established by the superintendent. (c) This coverage must allow for the dispensing of up to twelve months worth of a contraceptive at one time. **(d) For purposes of this clause, over-the-counter contraceptive products shall mean those products provided for in comprehensive guidelines supported by the health resources and services administration as of January twenty-first, two thousand nineteen.**

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