

STATE OF NEW YORK

7002

2021-2022 Regular Sessions

IN SENATE

May 21, 2021

Introduced by Sen. BROUK -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to requiring that provision be made for pregnancy termination procedures in every individual or group policy or contract which provides coverage or indemnity for hospital, surgical or medical care and which offers maternity care coverage

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

1 Section 1. Legislative findings. The legislature finds that New York
2 has a long history of advancing gender equity and, as part of that
3 effort, reproductive health.

4 The legislature additionally finds that access to the full range of
5 health benefits, as guaranteed under the laws of this state, provides
6 all New Yorkers with the opportunity to lead healthier and more fulfill-
7 ing lives.

8 The legislature also finds that neither a person's income level nor
9 the type of health insurance they utilize should prevent them from
10 having access to a full range of reproductive health care, including
11 abortion care.

12 The legislature additionally finds that restrictions and barriers to
13 health coverage for reproductive health care have a disproportionate
14 impact on low-income people, people of color, immigrants, and young
15 people and that these individuals are often already disadvantaged in
16 their access to resources, information, and services.

17 The legislature also finds that the exclusion of coverage for repro-
18 ductive health care services for women and those with the capacity to
19 become pregnant is discrimination on the basis of sex and pregnancy.

20 The legislature finds that abortion care is part of pregnancy-related
21 care, and failure to provide coverage for the full range of pregnancy-
22 related care interferes with an individual's personal health care deci-

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

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sion making, their overall health and well-being and with their constitutionally protected right to safe and legal abortion care.

§ 2. Subsection (i) of section 3216 of the insurance law is amended by adding a new paragraph 36 to read as follows:

(36)(A) Every policy which provides hospital, surgical, or medical coverage and which offers maternity care coverage pursuant to paragraph ten of this subsection shall also provide coverage for abortion services for an enrollee.

(B) Coverage for abortion shall not be subject to annual deductibles or coinsurance, including co-payments, unless the policy is a high deductible health plan as defined in section 223(c)(2) of the internal revenue code of 1986, in which case coverage for abortion may be subject to the plan's annual deductible.

(C) If the superintendent concludes that enforcement of this paragraph may adversely affect the allocation of federal funds to the state, the superintendent may grant an exemption to the requirements of this paragraph, but only to the minimum extent necessary to ensure the continued receipt of federal funds.

§ 3. Subsection (k) of section 3221 of the insurance law is amended by adding a new paragraph 22 to read as follows:

(22)(A) Every policy which provides hospital, surgical, or medical coverage and which offers maternity care coverage pursuant to paragraph five of this subsection shall also provide coverage for abortion services for an enrollee.

(B) Coverage for abortion shall not be subject to annual deductibles or coinsurance, including co-payments, unless the policy is a high deductible health plan as defined in section 223(c)(2) of the internal revenue code of 1986, in which case coverage for abortion may be subject to the plan's annual deductible.

(C) Notwithstanding any other provision, a group policy that provides hospital, surgical, or medical expense coverage delivered or issued for delivery in this state to a religious employer, as defined in item one of subparagraph (E) of paragraph sixteen of subsection (l) of this section, may exclude coverage for abortion only if the insurer:

(i) Obtains an annual certification from the group policyholder that the policyholder is a religious employer and that the religious employer requests a policy without coverage for abortion;

(ii) Issues a rider to each certificateholder at no premium to be charged to the certificateholder or religious employer for the rider, that provides coverage for abortion subject to the same rules as would have been applied to the same category of treatment in the policy issued to the religious employer. The rider shall clearly and conspicuously specify that the religious employer does not administer abortion benefits, but that the insurer is issuing a rider for coverage of abortion, and shall provide the insurer's contact information for questions; and

(iii) Provides notice of the issuance of the policy and rider to the superintendent in a form and manner acceptable to the superintendent.

(D) If the superintendent concludes that enforcement of this paragraph may adversely affect the allocation of federal funds to the state, the superintendent may grant an exemption to the requirements, but only to the minimum extent necessary to ensure the continued receipt of federal funds.

§ 4. Section 4303 of the insurance law is amended by adding a new subsection (ss) to read as follows:

(ss)(1) Every policy which provides hospital, surgical, or medical coverage and which offers maternity care coverage pursuant to subsection

1 (c) of this section shall also provide coverage for abortion services
2 for an enrollee.

3 (2) Coverage for abortion shall not be subject to annual deductibles
4 or coinsurance, including co-payments, unless the policy is a high
5 deductible health plan as defined in section 223(c)(2) of the internal
6 revenue code of 1986, in which case coverage for abortion may be subject
7 to the plan's annual deductible.

8 (3) Notwithstanding any other provision, a group policy that provides
9 hospital, surgical, or medical expense coverage delivered or issued for
10 delivery in this state to a religious employer, as defined in paragraph
11 five of subsection (cc) of this section, may exclude coverage for
12 abortion only if the insurer:

13 (A) Obtains an annual certification from the group policyholder that
14 the policyholder is a religious employer and that the religious employer
15 requests a policy without coverage for abortion;

16 (B) Issues a rider to each certificateholder at no premium to be
17 charged to the certificateholder or religious employer for the rider,
18 that provides coverage for abortion subject to the same rules as would
19 have been applied to the same category of treatment in the policy issued
20 to the religious employer. The rider shall clearly and conspicuously
21 specify that the religious employer does not administer abortion bene-
22 fits, but that the insurer is issuing a rider for coverage of abortion,
23 and shall provide the insurer's contact information for questions; and

24 (C) Provides notice of the issuance of the policy and rider to the
25 superintendent in a form and manner acceptable to the superintendent.

26 (4) If the superintendent concludes that enforcement of this
27 subsection may adversely affect the allocation of federal funds to the
28 state, the superintendent may grant an exemption to the requirements,
29 but only to the minimum extent necessary to ensure the continued receipt
30 of federal funds.

31 § 5. Severability. If any provision of this act, or any application of
32 any provision of this act, is held to be invalid, or to violate or be
33 inconsistent with any federal law or regulation, that shall not affect
34 the validity or effectiveness of any other provision of this act, or of
35 any other application of any provision of this act, which can be given
36 effect without that provision or application; and to that end, the
37 provisions and applications of this act are severable.

38 § 6. This act shall take effect on the first of January next succeed-
39 ing the date on which it shall have become a law and shall apply to all
40 policies and contracts issued, renewed, modified, altered, or amended on
41 or after such date.