

# STATE OF NEW YORK

8786

## IN SENATE

March 11, 2024

Introduced by Sen. MAY -- 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 health insurance policies to include coverage of optional anesthesia for certain contraceptive and menstrual health procedures

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

1 Section 1. Clause (v) of subparagraph (E) of paragraph 17 of  
2 subsection (i) of section 3216 of the insurance law, as amended by  
3 section 3 of part M of chapter 57 of the laws of 2019, is amended to  
4 read as follows:

5 (v) all FDA-approved menstrual health procedures and contraceptive  
6 drugs, devices, and other products, including all over-the-counter  
7 contraceptive drugs, devices, and products as prescribed or as otherwise  
8 authorized under state or federal law; voluntary sterilization proce-  
9 dures pursuant to 42 U.S.C. 18022 and identified in the comprehensive  
10 guidelines supported by the health resources and services administration  
11 and thereby incorporated in the essential health benefits benchmark  
12 plan; patient education and counseling on contraception; and follow-up  
13 services related to the drugs, devices, products, and procedures covered  
14 under this clause, including, but not limited to, management of side  
15 effects, counseling for continued adherence, and device insertion and  
16 removal. Except as otherwise authorized under this clause, a contract  
17 shall not impose any restrictions or delays on the coverage required  
18 under this clause. However, where the FDA has approved one or more  
19 therapeutic and pharmaceutical equivalent, as defined by the FDA,  
20 versions of a contraceptive drug, device, or product, a contract is not  
21 required to include all such therapeutic and pharmaceutical equivalent  
22 versions in its formulary, so long as at least one is included and  
23 covered without cost-sharing and in accordance with this clause. If the  
24 covered therapeutic and pharmaceutical equivalent versions of a drug,  
25 device, or product are not available or are deemed medically inadvisable  
26 a contract shall provide coverage for an alternate therapeutic and phar-  
27 maceutical equivalent version of the contraceptive drug, device, or

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

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1 product without cost-sharing. (a) This coverage shall include emergency  
2 contraception without cost sharing when provided pursuant to a  
3 prescription, or order under section sixty-eight hundred thirty-one of  
4 the education law or when lawfully provided over-the-counter. (b) If the  
5 attending health care provider, in his or her reasonable professional  
6 judgment, determines that the use of a non-covered therapeutic or phar-  
7 maceutical equivalent of a drug, device, or product is warranted, the  
8 health care provider's determination shall be final. The superintendent  
9 shall promulgate regulations establishing a process, including time-  
10 frames, for an insured, an insured's designee or an insured's health  
11 care provider to request coverage of a non-covered contraceptive drug,  
12 device, or product. Such regulations shall include a requirement that  
13 insurers use an exception form that shall meet criteria established by  
14 the superintendent. (c) This coverage must allow for the dispensing of  
15 up to twelve months worth of a contraceptive at one time. (d) This  
16 coverage shall include optional anesthesia for vaginal, cervical, and  
17 uterine medical procedures, including, but not limited to, loop electro-  
18 surgical excision procedure, colposcopy, ablation, and intrauterine  
19 device insertion. (e) For the purposes of this clause, "over-the-counter  
20 contraceptive products" shall mean those products provided for in  
21 comprehensive guidelines supported by the health resources and services  
22 administration as of January twenty-first, two thousand nineteen.

23 § 2. Subparagraph (A) of paragraph 16 of subsection (1) of section  
24 3221 of the insurance law, as amended by section 1 of part M of chapter  
25 57 of the laws of 2019, is amended to read as follows:

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

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

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

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

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

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

7 (e) this coverage shall include optional anesthesia for vaginal,  
8 cervical, and uterine medical procedures, including, but not limited to,  
9 loop electrosurgical excision procedure, colposcopy, ablation, and  
10 intrauterine device insertion;

11 (2) Voluntary sterilization procedures pursuant to 42 U.S.C. 18022 and  
12 identified in the comprehensive guidelines supported by the health  
13 resources and services administration and thereby incorporated in the  
14 essential health benefits benchmark plan;

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

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

20 § 3. The opening paragraph and subparagraph (A) of paragraph 1 of  
21 subsection (cc) of section 4303 of the insurance law, as amended by  
22 section 2 of part M of chapter 57 of the laws of 2019, are amended to  
23 read as follows:

24 Every contract that provides medical, major medical, or similar  
25 comprehensive type coverage that is issued, amended, renewed, effective  
26 or delivered on or after January first, two thousand twenty, shall  
27 provide coverage for all of the following services, menstrual health  
28 procedures, and contraceptive methods:

29 (A) All FDA-approved menstrual health procedures and contraceptive  
30 drugs, devices, and other products. This includes all FDA-approved  
31 over-the-counter contraceptive drugs, devices, and products as  
32 prescribed or as otherwise authorized under state or federal law. The  
33 following applies to this coverage:

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

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

54 (iii) this coverage shall include emergency contraception without  
55 cost-sharing when provided pursuant to a prescription or order under

1 section sixty-eight hundred thirty-one of the education law or when  
2 lawfully provided over the counter; [~~and~~]

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

5 (v) this coverage shall include optional anesthesia for vaginal,  
6 cervical, and uterine medical procedures, including, but not limited to,  
7 loop electrosurgical excision procedure, colposcopy, ablation, and  
8 intrauterine device insertion;

9 § 4. This act shall take effect immediately.