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:

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

(v) all FDA-approved ***menstrual health procedures and*** 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 pursuant to 42 U.S.C. 18022 and identified in the comprehensive guidelines supported by the health resources and services administration and thereby incorporated in the essential health benefits benchmark plan; 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

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

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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) **This coverage shall include optional anesthesia for vaginal, cervical, and uterine medical procedures, including, but not limited to, loop electrosurgical excision procedure, colposcopy, ablation, and intrauterine device insertion. (e)** For the 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.

§ 2. Subparagraph (A) of paragraph 16 of subsection (l) of section 3221 of the insurance law, as amended by section 1 of part M of chapter 57 of the laws of 2019, is amended 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**, menstrual health procedures,** and contraceptive methods:

(1) All FDA-approved **menstrual health procedures and** 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 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; **and**

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

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

(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.

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

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**, menstrual health procedures,** and contraceptive methods:

(A) All FDA-approved **menstrual health procedures and** 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; **and**

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

§ 4. This act shall take effect immediately.