

CHAPTER 276

INSURANCE

SENATE BILL 23-284

BY SENATOR(S) Bridges and Danielson, Buckner, Coleman, Cutter, Exum, Ginal, Gonzales, Hansen, Hinrichsen, Jaquez Lewis, Kolker, Marchman, Moreno, Mullica, Roberts, Rodriguez, Sullivan, Winter F., Zenzinger;
also REPRESENTATIVE(S) Jodeh and Weinberg, Amabile, Bird, Boesenecker, Brown, deGruy Kennedy, Dickson, Duran, English, Epps, Froelich, Garcia, Gonzales-Gutierrez, Hamrick, Herod, Joseph, Kipp, Lieder, Lindsay, Lindstedt, Lukens, Mabrey, Martinez, Mauro, McCormick, McLachlan, Parenti, Sharbini, Sirota, Snyder, Story, Titone, Velasco, Vigil, Weissman, Willford, Woodrow, McCluskie.

AN ACT**CONCERNING REQUIREMENTS FOR CONTRACEPTION INSURANCE COVERAGE THAT INCREASES
CONSISTENT ACCESS TO THE CONTRACEPTION MOST SUITED TO THE INDIVIDUAL.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **repeal and reenact, with amendments**, 10-16-104.2 as follows:

10-16-104.2. Coverage for contraception - rules - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CARRIER" MEANS A CARRIER OFFERING A HEALTH BENEFIT PLAN.

(b) "CONTRACEPTION" HAS THE SAME MEANING AS "CONTRACEPTIVE" OR "CONTRACEPTION" SET FORTH IN SECTION 2-4-401 (1.5).

(c) "DISPENSING ENTITY" MEANS A PHARMACY, OTHER OUTLET, OR OTHER FACILITY REGISTERED BY THE STATE BOARD OF PHARMACY UNDER PART 1 OF ARTICLE 280 OF TITLE 12 THAT DISPENSES OR FURNISHES CONTRACEPTION.

(2) AS PART OF THE COVERAGE REQUIRED FOR CONTRACEPTION PURSUANT TO SECTION 10-16-104 (3)(a)(I), (18), OR (18.1), AS APPLICABLE, A CARRIER OR A PHARMACY BENEFIT MANAGEMENT FIRM ACTING ON BEHALF OF THE CARRIER SHALL PROVIDE COVERAGE FOR, AND SHALL REIMBURSE A PROVIDER OR AN IN-NETWORK DISPENSING ENTITY FOR, THE SINGLE DISPENSING OR FURNISHING OF CONTRACEPTION

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

INTENDED TO LAST THE COVERED PERSON FOR A DURATION OF TWELVE MONTHS, AS PERMITTED BY THE COVERED PERSON'S PRESCRIPTION, DISPENSED OR FURNISHED AT ONE TIME, UNLESS REQUESTED OTHERWISE BY THE COVERED PERSON.

(3) A CARRIER OR PHARMACY BENEFIT MANAGEMENT FIRM ACTING ON BEHALF OF THE CARRIER SHALL:

(a) ALLOW FOR THE CONTINUOUS USE OF CLINICALLY APPROPRIATE CONTRACEPTION AS DETERMINED BY THE PRESCRIBING PROVIDER;

(b) REIMBURSE A PROVIDER OR AN IN-NETWORK DISPENSING ENTITY PER UNIT FOR DISPENSING OR FURNISHING CONTRACEPTION;

(c) NOT IMPLEMENT STEP THERAPY, PRIOR AUTHORIZATION, OR OTHER UTILIZATION MANAGEMENT PRACTICES, INCLUDING QUANTITY OR FILL LIMITS, FOR CONTRACEPTION COVERAGE IF THE PRACTICE WOULD RESULT IN A COVERED PERSON RECEIVING LESS THAN A TWELVE-MONTHS' DURATION OF CONTRACEPTION DISPENSED OR FURNISHED EITHER AT ONE TIME OR, IF REQUESTED BY THE COVERED PERSON AT THE POINT OF DISPENSING OR FURNISHING, OVER A TWELVE-MONTH PERIOD;

(d) INCLUDE AN ALTERNATIVE PRESCRIBED CONTRACEPTION WITHOUT PRIOR AUTHORIZATION, STEP THERAPY, OR COST SHARING IF, IN THE DETERMINATION AND JUDGMENT OF THE PRESCRIBING PROVIDER, THE ALTERNATIVE PRESCRIBED CONTRACEPTION IS MEDICALLY NECESSARY;

(e) MAKE AVAILABLE AN EASILY ACCESSIBLE, TIMELY, AND TRANSPARENT EXCEPTIONS PROCESS FOR A COVERED PERSON TO OBTAIN COVERAGE, WITHOUT COST SHARING, FOR MEDICALLY NECESSARY CONTRACEPTION THAT IS NOT OTHERWISE INCLUDED IN THE FORMULARY OR AVAILABLE WITHOUT COST SHARING;

(f) NOT REQUIRE A PRESCRIPTION FOR COVERAGE OF FDA-APPROVED, -CLEARED, OR -GRANTED OVER-THE-COUNTER CONTRACEPTION; AND

(g) INCLUDE POINT-OF-SALE COVERAGE FOR OVER-THE-COUNTER CONTRACEPTION AT IN-NETWORK DISPENSING ENTITIES WITHOUT PRIOR AUTHORIZATION, STEP THERAPY, UTILIZATION MANAGEMENT, OR COST SHARING.

(4)(a) CARRIERS SHALL REPORT ANNUALLY TO THE COMMISSIONER REGARDING THE COVERAGE OF CONTRACEPTION REQUIRED PURSUANT TO SECTION 10-16-104 (3)(a)(I), (18), OR (18.1). AT A MINIMUM, THE REPORTING REQUIREMENTS MUST INCLUDE ANNUAL REPORTING OF DATA RELATING TO CONTRACEPTION COVERAGE PROVIDED IN THE PREVIOUS CALENDAR YEAR.

(b) FOR PURPOSES OF THE CARRIER'S REQUIRED REPORTING TO THE COMMISSIONER PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION, A PHARMACY BENEFIT MANAGEMENT FIRM ACTING ON BEHALF OF A CARRIER SHALL ANNUALLY PROVIDE DATA TO THE CARRIER RELATING TO CONTRACEPTION COVERAGE IN THE PREVIOUS CALENDAR YEAR, AND THE CARRIER SHALL INCLUDE THE DATA PROVIDED BY A PHARMACY BENEFIT MANAGEMENT FIRM IN ITS ANNUAL REPORT REQUIRED BY SUBSECTION (4)(a) OF THIS SECTION.

(5) THE COMMISSIONER MAY PROMULGATE RULES TO IMPLEMENT THIS SECTION.

SECTION 2. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 30, 2023