

CHAPTER 428

INSURANCE

SENATE BILL 21-016

BY SENATOR(S) Pettersen and Moreno, Buckner, Danielson, Donovan, Fenberg, Ginal, Gonzales, Hansen, Jaquez Lewis, Lee, Story, Winter, Zenzinger, Garcia;
also REPRESENTATIVE(S) Esgar and Mullica, Bennett, Bird, Boesenecker, Caraveo, Cutter, Duran, Exum, Froelich, Gonzales-Gutierrez, Herod, Jackson, Jodeh, Kennedy, Kipp, Michaelson Jenet, Sirota, Valdez A., Young.

AN ACT

CONCERNING SERVICES RELATED TO PREVENTIVE HEALTH CARE, AND, IN CONNECTION THEREWITH, REQUIRING COVERAGE FOR CERTAIN PREVENTIVE MEASURES, SCREENINGS, AND TREATMENTS THAT ARE ADMINISTERED, DISPENSED, OR PRESCRIBED BY HEALTH CARE PROVIDERS AND FACILITIES AND MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 10-16-104, **amend** (18)(a)(I) introductory portion and (18)(a)(III)(A); and **add** (18)(b)(XI) and (18.1) as follows:

10-16-104. Mandatory coverage provisions - rules - definitions. (18) **Preventive health care services.** (a) (I) The following policies and contracts that are delivered, issued, renewed, or reinstated on or after January 1, 2010, must provide coverage for the total cost of the preventive health care services specified in ~~paragraph (b) of this subsection~~ (18) SUBSECTION (18)(b) OF THIS SECTION:

(III) (A) Except as provided in ~~sub-subparagraph (B) of this subparagraph~~ (III) SUBSECTION (18)(a)(III)(B) OF THIS SECTION, coverage required by this subsection (18) is not subject to policy deductibles, copayments, or coinsurance.

(b) The coverage required by this subsection (18) must include preventive health care services for the following, in accordance with the A or B recommendations of the task force for the particular preventive health care service:

(XI) (A) COUNSELING, PREVENTION, AND SCREENING FOR A SEXUALLY TRANSMITTED INFECTION, AS DEFINED IN SECTION 25-4-402 (10); EXCEPT THAT THE COVERAGE UNDER THIS SUBSECTION (18)(b)(XI) MUST BE PROVIDED TO ALL

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.

COVERED PERSONS REGARDLESS OF THE COVERED PERSON'S GENDER.

(B) THE DIVISION SHALL SUBMIT TO THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES ITS DETERMINATION AS TO WHETHER THE BENEFIT SPECIFIED IN THIS SUBSECTION (18)(b)(XI) IS IN ADDITION TO ESSENTIAL HEALTH BENEFITS AND WOULD BE SUBJECT TO DEFRAID BY THE STATE PURSUANT TO 42 U.S.C. SEC. 18031 (d)(3)(B) AND A REQUEST THAT THE FEDERAL DEPARTMENT CONFIRM THE DIVISION'S DETERMINATION WITHIN SIXTY DAYS AFTER RECEIPT OF THE DIVISION'S REQUEST AND SUBMISSION OF ITS DETERMINATION.

(C) THIS SUBSECTION (18)(b)(XI) APPLIES TO LARGE EMPLOYER POLICIES OR CONTRACTS ISSUED OR RENEWED ON OR AFTER JANUARY 1, 2022, AND TO INDIVIDUAL AND SMALL GROUP POLICIES AND CONTRACTS ISSUED ON OR AFTER JANUARY 1, 2023, AND THE DIVISION SHALL IMPLEMENT THE REQUIREMENTS OF THIS SUBSECTION (18)(b)(XI) IF THE DIVISION RECEIVES CONFIRMATION FROM THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES THAT THE COVERAGE SPECIFIED IN THIS SUBSECTION (18)(b)(XI) DOES NOT CONSTITUTE AN ADDITIONAL BENEFIT THAT REQUIRES DEFRAID BY THE STATE PURSUANT TO 42 U.S.C. SEC. 18031 (d)(3)(B); THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES HAS OTHERWISE INFORMED THE DIVISION THAT THE COVERAGE DOES NOT REQUIRE STATE DEFRAID PURSUANT TO 42 U.S.C. SEC. 18031 (d)(3)(B); OR MORE THAN THREE HUNDRED SIXTY-FIVE DAYS HAVE PASSED SINCE THE DIVISION SUBMITTED ITS DETERMINATION AND REQUEST FOR CONFIRMATION THAT THE COVERAGE SPECIFIED IN THIS SUBSECTION (18)(b)(XI) IS NOT AN ADDITIONAL BENEFIT THAT REQUIRES STATE DEFRAID PURSUANT TO 42 U.S.C. SEC. 18031 (d)(3)(B), AND THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES HAS FAILED TO RESPOND TO THE REQUEST WITHIN THAT PERIOD, IN WHICH CASE THE DIVISION SHALL CONSIDER THE FEDERAL DEPARTMENT'S UNREASONABLE DELAY A PRECLUSION FROM REQUIRING DEFRAID BY THE STATE.

(18.1) **Contraception.** (a) POLICIES OR CONTRACTS DESCRIBED IN SUBSECTION (18)(a)(I) OF THIS SECTION ISSUED OR RENEWED IN THIS STATE MUST PROVIDE COVERAGE FOR THE TOTAL COST OF CONTRACEPTION, AS DEFINED IN SECTION 2-4-401 (1.5).

(b) THE COVERAGE REQUIRED BY THIS SUBSECTION (18.1) IS NOT SUBJECT TO POLICY DEDUCTIBLES, COPAYMENTS, OR COINSURANCE.

(c) THIS SUBSECTION (18.1) DOES NOT APPLY TO GRANDFATHERED HEALTH BENEFIT PLANS.

(d) (I) THE DIVISION SHALL SUBMIT TO THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES:

(A) ITS DETERMINATION AS TO WHETHER THE BENEFIT SPECIFIED IN THIS SUBSECTION (18.1) IS IN ADDITION TO ESSENTIAL HEALTH BENEFITS AND WOULD BE SUBJECT TO DEFRAID BY THE STATE PURSUANT TO 42 U.S.C. SEC. 18031 (d)(3)(B); AND

(B) A REQUEST THAT THE FEDERAL DEPARTMENT CONFIRM THE DIVISION'S DETERMINATION WITHIN SIXTY DAYS AFTER RECEIPT OF THE DIVISION'S REQUEST AND

SUBMISSION OF ITS DETERMINATION.

(II) THIS SUBSECTION (18.1) APPLIES TO LARGE EMPLOYER POLICIES OR CONTRACTS ISSUED OR RENEWED ON OR AFTER JANUARY 1, 2022, AND TO INDIVIDUAL AND SMALL GROUP POLICIES AND CONTRACTS ISSUED ON OR AFTER JANUARY 1, 2023, AND THE DIVISION SHALL IMPLEMENT THE REQUIREMENTS OF THIS SUBSECTION (18.1), IF:

(A) THE DIVISION RECEIVES CONFIRMATION FROM THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES THAT THE COVERAGE SPECIFIED IN THIS SUBSECTION (18.1) DOES NOT CONSTITUTE AN ADDITIONAL BENEFIT THAT REQUIRES DEFRAID BY THE STATE PURSUANT TO 42 U.S.C. SEC. 18031 (d)(3)(B);

(B) THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES HAS OTHERWISE INFORMED THE DIVISION THAT THE COVERAGE DOES NOT REQUIRE STATE DEFRAID PURSUANT TO 42 U.S.C. SEC. 18031 (d)(3)(B); OR

(C) MORE THAN THREE HUNDRED SIXTY-FIVE DAYS HAVE PASSED SINCE THE DIVISION SUBMITTED ITS DETERMINATION AND REQUEST FOR CONFIRMATION THAT THE COVERAGE SPECIFIED IN THIS SUBSECTION (18.1) IS NOT AN ADDITIONAL BENEFIT THAT REQUIRES STATE DEFRAID PURSUANT TO 42 U.S.C. SEC. 18031 (d)(3)(B), AND THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES HAS FAILED TO RESPOND TO THE REQUEST WITHIN THAT PERIOD, IN WHICH CASE THE DIVISION SHALL CONSIDER THE FEDERAL DEPARTMENT'S UNREASONABLE DELAY A PRECLUSION FROM REQUIRING DEFRAID BY THE STATE.

SECTION 2. In Colorado Revised Statutes, 25-4-409, **amend** (1)(a) and (2) as follows:

25-4-409. Minors - treatment - consent. (1) (a) A health care provider or facility, if consulted by a patient who is a minor, shall perform, at the minor's request, a diagnostic examination for a sexually transmitted infection. The health care provider or facility shall treat the minor for a sexually transmitted infection, if necessary; discuss, ~~prevention~~ ADMINISTER, DISPENSE, OR PRESCRIBE PREVENTIVE measures OR MEDICATIONS, where applicable; and include appropriate therapies and prescriptions.

(2) The consent of a parent or legal guardian is not a prerequisite for a minor to receive a consultation, examination, PREVENTIVE CARE, or treatment for sexually transmitted infections. For the purposes of this section, health care provided to a minor is confidential, and information related to that care must not be divulged to any person other than the minor; except that the reporting required pursuant to the "Child Protection Act of 1987", part 3 of article 3 of title 19, ~~C.R.S.~~, still applies. If the minor is thirteen years of age or younger, the health care provider may involve the minor's parent or legal guardian. A health care provider shall counsel the minor on the importance of bringing ~~his or her~~ THE MINOR'S parent or legal guardian into the minor's confidence regarding the consultation, exam, or treatment.

SECTION 3. In Colorado Revised Statutes, **amend** 25.5-4-412 as follows:

25.5-4-412. Family planning services - family-planning-related services -

rules - definitions. (1) When ~~medical or diagnostic~~ FAMILY PLANNING services OR FAMILY-PLANNING-RELATED SERVICES are provided in accordance with this ~~article~~ ARTICLE 4 and articles 5 and 6 of this ~~title~~ by a ~~certified family planning clinic~~ TITLE 25.5, the executive director of the state department shall authorize reimbursement for the services, ~~The reimbursement shall be made directly to the certified family planning clinic~~ SUBJECT TO SECTION 50 OF ARTICLE V OF THE STATE CONSTITUTION. THE STATE DEPARTMENT, ANY INTERMEDIARY, OR ANY MANAGED CARE ORGANIZATION SHALL REIMBURSE THE PROVIDER OF THOSE SERVICES. FAMILY PLANNING SERVICES AND FAMILY-PLANNING-RELATED SERVICES ARE NOT SUBJECT TO POLICY DEDUCTIBLES, COPAYMENTS, OR COINSURANCE.

(2) ~~For purposes of~~ AS USED IN this section, "~~certified family planning clinic~~" means a ~~family planning clinic certified by the Colorado department of public health and environment, accredited by a national family planning organization, and staffed by medical professionals licensed to practice in the state of Colorado, including, but not limited to, doctors of medicine, doctors of osteopathy, physician assistants, and advanced practice nurses.~~ UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "FAMILY-PLANNING-RELATED SERVICES" MEANS SERVICES PROVIDED IN A FAMILY PLANNING SETTING AS PART OF OR AS A FOLLOW-UP TO A FAMILY PLANNING VISIT, INCLUDING:

(I) MEDICALLY NECESSARY EVALUATIONS OR PREVENTIVE SERVICES, SUCH AS TOBACCO UTILIZATION SCREENING, COUNSELING, TESTING, AND CESSATION SERVICES;

(II) CERVICAL CANCER SCREENING AND PREVENTION;

(III) DIAGNOSIS OR TREATMENT OF A SEXUALLY TRANSMITTED INFECTION OR SEXUALLY TRANSMITTED DISEASE, AND MEDICATION AND SUPPLIES TO PREVENT A SEXUALLY TRANSMITTED INFECTION OR SEXUALLY TRANSMITTED DISEASE; AND

(IV) ANY OTHER MEDICAL DIAGNOSIS, TREATMENT, OR PREVENTIVE SERVICE THAT IS ROUTINELY PROVIDED PURSUANT TO A FAMILY PLANNING VISIT.

(b) "FAMILY PLANNING SERVICES" MEANS ALL SERVICES COVERED BY THE FEDERAL TITLE X FAMILY PLANNING PROGRAM, REGARDLESS OF AN INDIVIDUAL'S AGE, SEX, OR GENDER IDENTITY, OR THE AGE, SEX, OR GENDER IDENTITY OF THE INDIVIDUAL'S PARTNER, INCLUDING BUT NOT LIMITED TO:

(I) ALL CONTRACEPTION, AS DEFINED IN SECTION 2-4-401 (1.5);

(II) HEALTH-CARE AND COUNSELING SERVICES FOCUSED ON PREVENTING, DELAYING, OR PLANNING FOR A PREGNANCY;

(III) FOLLOW-UP VISITS TO EVALUATE OR MANAGE PROBLEMS ASSOCIATED WITH CONTRACEPTIVE METHODS;

(IV) STERILIZATION SERVICES, REGARDLESS OF AN INDIVIDUAL'S SEX; AND

(V) BASIC FERTILITY SERVICES.

~~(3) For purposes of this section, all medical care services or goods rendered by a certified family planning clinic that are benefits of the Colorado medical assistance program shall be ordered by a physician who need not be physically present on the premises of the certified family planning clinic at the time services are rendered.~~

~~(4) Nothing in this section shall be construed as expanding the provision of services available as a part of the medical assistance program established pursuant to this article and articles 5 and 6 of this title. For purposes of making payments to certified family planning clinics pursuant to this section PROVIDERS, the state board shall establish rules implementing this section. The rules promulgated pursuant to this subsection (4) shall ensure that the reimbursement for services rendered by a certified family planning clinic pursuant to this section shall not be the sole result of an increase in the costs to the state medical assistance program.~~

(5) ANY RECIPIENT MAY OBTAIN FAMILY PLANNING SERVICES OR FAMILY-PLANNING-RELATED SERVICES FROM ANY LICENSED HEALTH CARE PROVIDER, INCLUDING BUT NOT LIMITED TO A DOCTOR OF MEDICINE, DOCTOR OF OSTEOPATHY, PHYSICIAN ASSISTANT, OR ADVANCED PRACTICE NURSE, WHO PROVIDES SUCH SERVICES. THE ENROLLMENT OF A RECIPIENT IN A MANAGED CARE ORGANIZATION, OR A SIMILAR ENTITY, DOES NOT RESTRICT A RECIPIENT'S CHOICE OF THE LICENSED PROVIDER FROM WHOM THE RECIPIENT MAY RECEIVE THOSE SERVICES.

(6) THE STATE BOARD SHALL PROMULGATE RULES ESTABLISHING THE SPECIFIC FAMILY-PLANNING-RELATED SERVICES AND FAMILY PLANNING SERVICES IDENTIFIED IN SUBSECTIONS (2)(a) AND (2)(b) OF THIS SECTION. PRIOR TO PROMULGATING THE RULES, THE STATE DEPARTMENT SHALL ENGAGE IN A STAKEHOLDER PROCESS THAT ATTEMPTS TO INCLUDE INDIVIDUALS WHO HAVE RECEIVED FAMILY PLANNING SERVICES THROUGH THE STATE'S MEDICAL ASSISTANCE PROGRAM OR THE CHILDREN'S BASIC HEALTH PLAN, REPRESENTATIVES OF CONSUMER ADVOCACY ORGANIZATIONS, AND FAMILY PLANNING PROVIDERS. THE STAKEHOLDERS MUST BE DIVERSE WITH REGARD TO RACE, ETHNICITY, IMMIGRATION STATUS, AGE, ABILITY, SEXUAL ORIENTATION, GENDER IDENTITY, OR GEOGRAPHIC REGION OF THE STATE.

SECTION 4. Appropriation. (1) For the 2021-22 state fiscal year, \$90,547 is appropriated to the department of health care policy and financing. This appropriation is from the general fund. To implement this act, the department may use this appropriation for the Medicaid management information system maintenance and projects.

(2) For the 2021-22 state fiscal year, the general assembly anticipates that the department of health care policy and financing will receive \$814,920 in federal funds for the Medicaid management information system maintenance and projects to implement this act. The appropriation in subsection (1) of this section is based on the assumption that the department will receive this amount of federal funds, which is subject to the "(I)" notation as defined in the annual general appropriation act for the same fiscal year.

(3) For the 2021-22 state fiscal year, \$13,353 is appropriated to the department of regulatory agencies for use by the division of insurance. This appropriation is from the division of insurance cash fund created in section 10-1-103 (3), C.R.S., and

is based on an assumption that the division will require an additional 0.2 FTE. To implement this act, the division may use this appropriation for personal services.

SECTION 5. Applicability. Section 1 of this act applies to health benefit plans issued or renewed on or after January 1, 2023.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: July 6, 2021