

Massachusetts' Contraceptive Coverage Requirement

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Issue

Summarize Massachusetts' recently enacted law requiring insurance policies to cover contraception and Connecticut's sSB 586 (Sections 7 & 8) from 2017.

Summary

Massachusetts [H. 4099](#), *An Act Relative to Advancing Contraceptive Coverage and Economic Security in Our State*, also known as the ACCESS Act, became law on November 20, 2017. It applies to all health plans in the state, including commercial health insurance policies and HMO contracts, the state employee health plan, and Medicaid, and gives these plans six months from enactment to comply.

The ACCESS Act requires health plans to cover contraceptive drugs, devices, and products approved by the U.S. Food and Drug Administration (FDA); female sterilization procedures; patient education and counseling on contraception; and follow-up services related to the contraceptive drugs, devices, and products. Coverage generally must be provided in full without cost-sharing requirements. The law also allows women to receive a 12-month supply of prescription contraceptives at one time after initially filling a three-month prescription. The law exempts religious employers from its coverage requirements.

Connecticut [sSB 586](#), *An Act Expanding Mandated Health Benefits for Women, Children, and Adolescents*, died on the House calendar.

Sections 7 & 8 of this omnibus bill require commercial health insurance policies and HMO contracts to cover all FDA-approved contraceptive and sterilization methods; counseling on contraceptive methods, equipment, and supplies; and routine follow-up care concerning contraception. Coverage provided by in-network providers must be provided without cost sharing requirements, except for certain high-deductible health plans. Plans may impose step therapy and prior authorization requirements for the services. Under existing law, religious employers and individuals may request an exemption from the contraceptive coverage requirement.

Massachusetts

The ACCESS Act requires health plans to cover the following services and contraceptive methods:

1. FDA-approved contraceptive drugs, devices, and products, except for male condoms and FDA-approved oral contraceptives that do not have a therapeutic equivalent;
2. FDA-approved emergency contraception available over the counter;
3. (a) a three-month supply of prescription contraceptives for the first time the contraceptive is dispensed and (b) any subsequent 12-month supply of the same prescription contraceptive;
4. voluntary female sterilization;
5. patient education and counseling on contraception; and
6. follow-up services related to covered contraceptive drugs, devices, products, and procedures, including management of side effects, counseling for continued adherence, and device insertion and removal.

Health plans must provide coverage for the above items in full with no cost-sharing (e.g., copayments, coinsurance, or deductibles) except as described below.

If the FDA has approved one or more therapeutic equivalents of a contraceptive drug, device, or product, a health plan is not required to include all therapeutically equivalent versions on its formulary (i.e., list of approved drugs) as long as one is included and covered without cost-sharing. If there is a therapeutic equivalent of a drug, device, or product for an FDA-approved contraceptive method, a health plan may provide coverage for more than one as long as at least one is available without cost-sharing. However, if a covered person's attending physician recommends a particular FDA-approved contraceptive based on a medical determination for that person, the plan must provide coverage for it without cost-sharing but the plan's utilization management procedures (e.g., prior authorization) may apply.

Under the act, appeals of an adverse determination of a request for coverage of an alternative FDA-approved contraceptive drug, device, or product without cost-sharing are subject to the state's expedited grievance process.

The act also specifies that it does not exclude coverage for contraceptive drugs, devices, products, and procedures prescribed by a health care provider for reasons other than contraceptive purposes, including decreasing the risk of ovarian cancer, eliminating symptoms of menopause, or providing contraception that is necessary to preserve the covered person's life and health.

Lastly, the act exempts a health plan purchased by an employer that is a church or qualified church-controlled organization from the contraceptive coverage requirement. Such an employer must provide written notice to prospective employees before plan enrollment. The notice must list the contraceptive methods and services not provided by the plan for religious reasons.

Connecticut

Sections 7 & 8 of [SSB 586](#) (2017), as amended by Senate Amendment A, requires health plans to cover the following contraceptive methods and services:

1. FDA-approved contraceptive methods;
2. FDA-approved sterilization methods;
3. counseling in (a) FDA-approved contraceptive methods and (b) the proper use of FDA-approved contraceptive equipment and supplies; and
4. routine follow-up care concerning FDA-approved contraceptive methods, equipment, and supplies.

The bill requires health plans to provide coverage in full with no cost-sharing, except for high deductible health care plans designed to be compatible with federally qualified health savings accounts. However, it allows plans to impose cost-sharing requirements for contraceptive methods and services received from out-of-network providers.

The bill also allows plans to impose step therapy or prior authorization requirements on contraceptive methods and services. (Step therapy is a protocol establishing the sequence for prescribing drugs that generally requires patients to try less expensive drugs before higher cost drugs.)

Existing law, unchanged by the bill, allows religious employers and individuals to request an exemption from the contraceptive coverage requirements if they are contrary to their bona fide religious tenets (CGS §§ [38a-503e](#) and [38a-530e](#)).

JKL:cmg