

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by
5 changing Section 356z.4 as follows:

6 (215 ILCS 5/356z.4)

7 Sec. 356z.4. Coverage for contraceptives.

8 (a)(1) The General Assembly hereby finds and declares all
9 of the following:

10 (A) Illinois has a long history of expanding timely
11 access to birth control to prevent unintended pregnancy.

12 (B) The federal Patient Protection and Affordable Care
13 Act includes a contraceptive coverage guarantee as part of
14 a broader requirement for health insurance to cover key
15 preventive care services without out-of-pocket costs for
16 patients.

17 (C) The General Assembly intends to build on existing
18 State and federal law to promote gender equity and women's
19 health and to ensure greater contraceptive coverage equity
20 and timely access to all federal Food and Drug
21 Administration approved methods of birth control for all
22 individuals covered by an individual or group health
23 insurance policy in Illinois.

1 (D) Medical management techniques such as denials,
2 step therapy, or prior authorization in public and private
3 health care coverage can impede access to the most
4 effective contraceptive methods.

5 (2) As used in this subsection (a):

6 "Contraceptive services" includes consultations,
7 examinations, procedures, and medical services related to the
8 use of contraceptive methods (including natural family
9 planning) to prevent an unintended pregnancy.

10 "Medical necessity", for the purposes of this subsection
11 (a), includes, but is not limited to, considerations such as
12 severity of side effects, differences in permanence and
13 reversibility of contraceptive, and ability to adhere to the
14 appropriate use of the item or service, as determined by the
15 attending provider.

16 "Therapeutic equivalent version" means drugs, devices, or
17 products that can be expected to have the same clinical effect
18 and safety profile when administered to patients under the
19 conditions specified in the labeling and satisfy the following
20 general criteria:

21 (i) they are approved as safe and effective;

22 (ii) they are pharmaceutical equivalents in that they

23 (A) contain identical amounts of the same active drug
24 ingredient in the same dosage form and route of
25 administration and (B) meet compendial or other applicable
26 standards of strength, quality, purity, and identity;

1 (iii) they are bioequivalent in that (A) they do not
2 present a known or potential bioequivalence problem and
3 they meet an acceptable in vitro standard or (B) if they do
4 present such a known or potential problem, they are shown
5 to meet an appropriate bioequivalence standard;

6 (iv) they are adequately labeled; and

7 (v) they are manufactured in compliance with Current
8 Good Manufacturing Practice regulations.

9 (3) An individual or group policy of accident and health
10 insurance amended, delivered, issued, or renewed in this State
11 after the effective date of this amendatory Act of the 99th
12 General Assembly shall provide coverage for all of the
13 following services and contraceptive methods:

14 (A) All contraceptive drugs, devices, and other
15 products approved by the United States Food and Drug
16 Administration. This includes all over-the-counter
17 contraceptive drugs, devices, and products approved by the
18 United States Food and Drug Administration, excluding male
19 condoms. The following apply:

20 (i) If the United States Food and Drug
21 Administration has approved one or more therapeutic
22 equivalent versions of a contraceptive drug, device,
23 or product, a policy is not required to include all
24 such therapeutic equivalent versions in its formulary,
25 so long as at least one is included and covered without
26 cost-sharing and in accordance with this Section.

1 (ii) If an individual's attending provider
2 recommends a particular service or item approved by the
3 United States Food and Drug Administration based on a
4 determination of medical necessity with respect to
5 that individual, the plan or issuer must cover that
6 service or item without cost sharing. The plan or
7 issuer must defer to the determination of the attending
8 provider.

9 (iii) If a drug, device, or product is not covered,
10 plans and issuers must have an easily accessible,
11 transparent, and sufficiently expedient process that
12 is not unduly burdensome on the individual or a
13 provider or other individual acting as a patient's
14 authorized representative to ensure coverage without
15 cost sharing.

16 (iv) This coverage must provide for the dispensing
17 of 12 months' worth of contraception at one time.

18 (B) Voluntary sterilization procedures.

19 (C) Contraceptive services, patient education, and
20 counseling on contraception.

21 (D) Follow-up services related to the drugs, devices,
22 products, and procedures covered under this Section,
23 including, but not limited to, management of side effects,
24 counseling for continued adherence, and device insertion
25 and removal.

26 (4) Except as otherwise provided in this subsection (a), a

1 policy subject to this subsection (a) shall not impose a
2 deductible, coinsurance, copayment, or any other cost-sharing
3 requirement on the coverage provided.

4 (5) Except as otherwise authorized under this subsection
5 (a), a policy shall not impose any restrictions or delays on
6 the coverage required under this subsection (a).

7 (6) If, at any time, the Secretary of the United States
8 Department of Health and Human Services, or its successor
9 agency, promulgates rules or regulations to be published in the
10 Federal Register or publishes a comment in the Federal Register
11 or issues an opinion, guidance, or other action that would
12 require the State, pursuant to any provision of the Patient
13 Protection and Affordable Care Act (Public Law 111-148),
14 including, but not limited to, 42 U.S.C. 18031(d) (3) (B) or any
15 successor provision, to defray the cost of any coverage
16 outlined in this subsection (a), then this subsection (a) is
17 inoperative with respect to all coverage outlined in this
18 subsection (a) other than that authorized under Section 1902 of
19 the Social Security Act, 42 U.S.C. 1396a, and the State shall
20 not assume any obligation for the cost of the coverage set
21 forth in this subsection (a).

22 (b) This subsection (b) shall become operative if and only
23 if subsection (a) becomes inoperative.

24 ~~(a)~~ An individual or group policy of accident and health
25 insurance amended, delivered, issued, or renewed in this State
26 after the date this subsection (b) becomes operative ~~effective~~

~~date of this amendatory Act of the 93rd General Assembly~~ that provides coverage for outpatient services and outpatient prescription drugs or devices must provide coverage for the insured and any dependent of the insured covered by the policy for all outpatient contraceptive services and all outpatient contraceptive drugs and devices approved by the Food and Drug Administration. Coverage required under this Section may not impose any deductible, coinsurance, waiting period, or other cost-sharing or limitation that is greater than that required for any outpatient service or outpatient prescription drug or device otherwise covered by the policy.

Nothing in this subsection (b) shall be construed to require an insurance company to cover services related to permanent sterilization that requires a surgical procedure.

~~(b)~~ As used in this subsection (b) ~~Section~~, "outpatient contraceptive service" means consultations, examinations, procedures, and medical services, provided on an outpatient basis and related to the use of contraceptive methods (including natural family planning) to prevent an unintended pregnancy.

(c) Nothing in this Section shall be construed to require an insurance company to cover services related to an abortion as the term "abortion" is defined in the Illinois Abortion Law of 1975.

(d) If a plan or issuer utilizes a network of providers, nothing in this Section shall be construed to require coverage

1 or to prohibit the plan or issuer from imposing cost-sharing
2 for items or services described in this Section that are
3 provided or delivered by an out-of-network provider, unless the
4 plan or issuer does not have in its network a provider who is
5 able to or is willing to provide the applicable items or
6 services.

7 ~~(d) Nothing in this Section shall be construed to require~~
8 ~~an insurance company to cover services related to permanent~~
9 ~~sterilization that requires a surgical procedure.~~

10 (Source: P.A. 95-331, eff. 8-21-07.)