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Legislative Document

No. 163

H.P. 96

House of Representatives, January 14, 2025

**An Act to Require Health Insurance Coverage for Federally
Approved Nonprescription Oral Hormonal Contraceptives and
Nonprescription Emergency Contraceptives**

Reference to the Committee on Health Coverage, Insurance and Financial Services
suggested and ordered printed.

Handwritten signature of Robert B. Hunt in cursive.

ROBERT B. HUNT
Clerk

Presented by Representative ARFORD of Brunswick.
Cosponsored by President DAUGHTRY of Cumberland and
Representatives: BOYER of Cape Elizabeth, CLOUTIER of Lewiston, CLUCHEY of
Bowdoinham, GRAMLICH of Old Orchard Beach, MATHIESON of Kittery, STOVER of
Boothbay, Senators: BAILEY of York, TALBOT ROSS of Cumberland.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 24 MRSA §2332-J, sub-§1**, as enacted by PL 1999, c. 341, §1 and affected
3 by §5, is amended to read:

4 **1. Coverage requirements.** All individual and group nonprofit hospital and medical
5 services plan policies and contracts and all nonprofit health care plan policies and contracts
6 that provide coverage for prescription drugs or outpatient medical services must provide
7 coverage for all prescription contraceptives, nonprescription oral hormonal contraceptives
8 and nonprescription emergency contraceptives approved by the federal Food and Drug
9 Administration or for outpatient contraceptive services, ~~respectively, to the same extent~~
10 ~~that coverage is provided for other prescription drugs or outpatient medical services in~~
11 accordance with the requirements of this section. For purposes of this section, ~~the term~~
12 "outpatient contraceptive services" means consultations, examinations, procedures and
13 medical services provided on an outpatient basis and related to the use of contraceptive
14 methods to prevent an unintended pregnancy. This section may not be construed to apply
15 to prescription drugs or devices that are designed to terminate a pregnancy.

16 **Sec. 2. 24 MRSA §2332-J, sub-§4**, as enacted by PL 2021, c. 609, §1, is amended
17 to read:

18 **4. Coverage of contraceptive supplies.** Coverage required under this section must
19 include coverage for contraceptive supplies in accordance with the following requirements.
20 For purposes of this section, "contraceptive supplies" means all contraceptive drugs,
21 devices and products approved by the federal Food and Drug Administration to prevent an
22 unwanted pregnancy, including nonprescription oral hormonal contraceptives and
23 nonprescription emergency contraceptives.

24 A. Coverage must be provided without any deductible, coinsurance, copayment or
25 other cost-sharing requirement.

26 B. If the federal Food and Drug Administration has approved one or more therapeutic
27 equivalents of a contraceptive supply, an insurer is not required to cover all those
28 therapeutically equivalent versions in accordance with this subsection, as long as at
29 least one is covered without any deductible, coinsurance, copayment or other cost-
30 sharing requirement in accordance with this subsection.

31 C. Coverage must be provided for the furnishing or dispensing of prescribed
32 contraceptive supplies and nonprescription oral hormonal contraceptive supplies
33 intended to last for a 12-month period, which may be furnished or dispensed all at once
34 or over the course of the 12 months at the discretion of the health care provider for
35 prescribed contraceptive supplies.

36 D. A prescription is not required to obtain a nonprescription oral hormonal
37 contraceptive or nonprescription emergency contraceptive.

38 E. A nonprofit hospital or medical service organization or nonprofit health care service
39 organization shall establish mechanisms to ensure that an enrollee who seeks coverage
40 for a nonprescription oral hormonal contraceptive or nonprescription emergency
41 contraceptive at a pharmacy has the option to obtain the nonprescription oral hormonal
42 contraceptive or nonprescription emergency contraceptive at the point of sale without
43 payment of any cost-sharing amount or to make the purchase at the pharmacy through

1 an out-of-pocket payment at the point of sale and submit a claim for reimbursement.
2 The pharmacy may use a standing order to facilitate billing for a nonprescription oral
3 hormonal contraceptive or nonprescription emergency contraceptive in accordance
4 with this paragraph.

5 **Sec. 3. 24 MRSA §2332-J, sub-§5** is enacted to read:

6 **5. Rules.** The superintendent may adopt rules as necessary to implement the
7 requirements of this section, including rules related to mechanisms to ensure coverage for
8 nonprescription oral hormonal contraceptives and nonprescription emergency
9 contraceptives and rules regarding notice to enrollees about how to access coverage for
10 nonprescription oral hormonal contraceptives and nonprescription emergency
11 contraceptives. Rules adopted pursuant to this subsection are routine technical rules as
12 described in Title 5, chapter 375, subchapter 2-A.

13 **Sec. 4. 24-A MRSA §2756, sub-§1**, as enacted by PL 1999, c. 341, §2 and affected
14 by §5, is amended to read:

15 **1. Coverage requirements.** All individual health policies and contracts, except
16 accidental injury, specified disease, hospital indemnity, Medicare supplement, disability
17 income, long-term care and other limited benefit health insurance policies and contracts,
18 that provide coverage for prescription drugs or outpatient medical services must provide
19 coverage for all prescription contraceptives, nonprescription oral hormonal contraceptives
20 and nonprescription emergency contraceptives approved by the federal Food and Drug
21 Administration or for outpatient contraceptive services, ~~respectively, to the same extent~~
22 ~~that coverage is provided for other prescription drugs or outpatient medical services in~~
23 accordance with the requirements of this section. For purposes of this section, ~~the term~~
24 "outpatient contraceptive services" means consultations, examinations, procedures and
25 medical services provided on an outpatient basis and related to the use of contraceptive
26 methods to prevent an unintended pregnancy. This section may not be construed to apply
27 to prescription drugs or devices that are designed to terminate a pregnancy.

28 **Sec. 5. 24-A MRSA §2756, sub-§3**, as amended by PL 2021, c. 609, §2, is further
29 amended to read:

30 **3. Coverage of contraceptive supplies.** Coverage required under this section must
31 include coverage for contraceptive supplies in accordance with the following requirements.
32 For purposes of this section, "contraceptive supplies" means all contraceptive drugs,
33 devices and products approved by the federal Food and Drug Administration to prevent an
34 unwanted pregnancy, including nonprescription oral hormonal contraceptives and
35 nonprescription emergency contraceptives.

36 A. Coverage must be provided without any deductible, coinsurance, copayment or
37 other cost-sharing requirement.

38 B. If the federal Food and Drug Administration has approved one or more therapeutic
39 equivalents of a contraceptive supply, an insurer is not required to cover all those
40 therapeutically equivalent versions in accordance with this subsection, as long as at
41 least one is covered without any deductible, coinsurance, copayment or other cost-
42 sharing requirement in accordance with this subsection.

43 D. Coverage must be provided for the furnishing or dispensing of prescribed
44 contraceptive supplies and nonprescription oral hormonal contraceptive supplies

1 intended to last for a 12-month period, which may be furnished or dispensed all at once
2 or over the course of the 12 months at the discretion of the health care provider for
3 prescribed contraceptive supplies.

4 E. A prescription is not required to obtain a nonprescription oral hormonal
5 contraceptive or nonprescription emergency contraceptive.

6 F. An insurer shall establish mechanisms to ensure that an enrollee who seeks coverage
7 for a nonprescription oral hormonal contraceptive or nonprescription emergency
8 contraceptive at a pharmacy has the option to obtain the nonprescription oral hormonal
9 contraceptive or nonprescription emergency contraceptive at the point of sale without
10 payment of any cost-sharing amount or to make the purchase through an out-of-pocket
11 payment at the point of sale and submit a claim for reimbursement to the insurer. The
12 pharmacy may use a standing order to facilitate billing for a nonprescription oral
13 hormonal contraceptive or nonprescription emergency contraceptive in accordance
14 with this paragraph.

15 **Sec. 6. 24-A MRSA §2756, sub-§4** is enacted to read:

16 **4. Rules.** The superintendent may adopt rules as necessary to implement the
17 requirements of this section, including rules related to mechanisms to ensure coverage for
18 nonprescription oral hormonal contraceptives and nonprescription emergency
19 contraceptives and rules regarding notice to enrollees about how to access coverage for
20 nonprescription oral hormonal contraceptives and nonprescription emergency
21 contraceptives. Rules adopted pursuant to this subsection are routine technical rules as
22 described in Title 5, chapter 375, subchapter 2-A.

23 **Sec. 7. 24-A MRSA §2847-G, sub-§1**, as enacted by PL 1999, c. 341, §3 and
24 affected by §5, is amended to read:

25 **1. Coverage requirements.** All group insurance policies and contracts, except
26 accidental injury, specified disease, hospital indemnity, Medicare supplement, disability
27 income, long-term care and other limited benefit health insurance policies and contracts
28 that provide coverage for prescription drugs or outpatient medical services must provide
29 coverage for all prescription contraceptives, nonprescription oral hormonal contraceptives
30 and nonprescription emergency contraceptives approved by the federal Food and Drug
31 Administration or for outpatient contraceptive services, ~~respectively, to the same extent~~
32 ~~that coverage is provided for other prescription drugs or outpatient medical services in~~
33 accordance with the requirements of this section. For purposes of this section, ~~the term~~
34 "outpatient contraceptive services" means consultations, examinations, procedures and
35 medical services provided on an outpatient basis and related to the use of contraceptive
36 methods to prevent an unintended pregnancy. This section may not be construed to apply
37 to prescription drugs or devices that are designed to terminate a pregnancy.

38 **Sec. 8. 24-A MRSA §2847-G, sub-§4**, as amended by PL 2021, c. 609, §3, is
39 further amended to read:

40 **4. Coverage of contraceptive supplies.** Coverage required under this section must
41 include coverage for contraceptive supplies in accordance with the following requirements.
42 For purposes of this section, "contraceptive supplies" means all contraceptive drugs,
43 devices and products approved by the federal Food and Drug Administration to prevent an

1 unwanted pregnancy, including nonprescription oral hormonal contraceptives and
2 nonprescription emergency contraceptives.

3 A. Coverage must be provided without any deductible, coinsurance, copayment or
4 other cost-sharing requirement.

5 B. If the federal Food and Drug Administration has approved one or more therapeutic
6 equivalents of a contraceptive supply, an insurer is not required to cover all those
7 therapeutically equivalent versions in accordance with this subsection, as long as at
8 least one is covered without any deductible, coinsurance, copayment or other cost-
9 sharing requirement in accordance with this subsection.

10 D. Coverage must be provided for the furnishing or dispensing of prescribed
11 contraceptive supplies and nonprescription oral hormonal contraceptive supplies
12 intended to last for a 12-month period, which may be furnished or dispensed all at once
13 or over the course of the 12 months at the discretion of the health care provider for
14 prescribed contraceptive supplies.

15 E. A prescription is not required to obtain a nonprescription oral hormonal
16 contraceptive or nonprescription emergency contraceptive.

17 F. An insurer shall establish mechanisms to ensure that an enrollee who seeks coverage
18 for a nonprescription oral hormonal contraceptive or nonprescription emergency
19 contraceptive at a pharmacy has the option to obtain the nonprescription oral hormonal
20 contraceptive or nonprescription emergency contraceptive at the point of sale without
21 payment of any cost-sharing amount or to make the purchase at the pharmacy through
22 an out-of-pocket payment at the point of sale and submit a claim for reimbursement to
23 the insurer. The pharmacy may use a standing order to facilitate billing for a
24 nonprescription oral hormonal contraceptive or nonprescription emergency
25 contraceptive in accordance with this paragraph.

26 **Sec. 9. 24-A MRSA §2847-G, sub-§5** is enacted to read:

27 **5. Rules.** The superintendent may adopt rules as necessary to implement the
28 requirements of this section, including rules related to mechanisms to ensure coverage for
29 nonprescription oral hormonal contraceptives and nonprescription emergency
30 contraceptives and rules regarding notice to enrollees about how to access coverage for
31 nonprescription oral hormonal contraceptives and nonprescription emergency
32 contraceptives. Rules adopted pursuant to this subsection are routine technical rules as
33 described in Title 5, chapter 375, subchapter 2-A.

34 **Sec. 10. 24-A MRSA §4247, sub-§1**, as reallocated by RR 1999, c. 1, §37, is
35 amended to read:

36 **1. Coverage requirements.** All health maintenance organization individual and
37 group health contracts that provide coverage for prescription drugs or outpatient medical
38 services must provide coverage for all prescription contraceptives, nonprescription oral
39 hormonal contraceptives and nonprescription emergency contraceptives approved by the
40 federal Food and Drug Administration or for outpatient contraceptive services;
41 respectively, ~~to the same extent that coverage is provided for other prescription drugs or~~
42 ~~outpatient medical services~~ in accordance with the requirements of this section. For
43 purposes of this section, ~~the term~~ "outpatient contraceptive services" means consultations,
44 examinations, procedures and medical services provided on an outpatient basis and related

1 to the use of contraceptive methods to prevent an unintended pregnancy. This section may
2 not be construed to apply to prescription drugs or devices that are designed to terminate a
3 pregnancy.

4 **Sec. 11. 24-A MRSA §4247, sub-§4**, as amended by PL 2021, c. 609, §4, is further
5 amended to read:

6 **4. Coverage of contraceptive supplies.** Coverage required under this section must
7 include coverage for contraceptive supplies in accordance with the following requirements.
8 For purposes of this section, "contraceptive supplies" means all contraceptive drugs,
9 devices and products approved by the federal Food and Drug Administration to prevent an
10 unwanted pregnancy, including nonprescription oral hormonal contraceptives and
11 nonprescription emergency contraceptives.

12 A. Coverage must be provided without any deductible, coinsurance, copayment or
13 other cost-sharing requirement.

14 B. If the federal Food and Drug Administration has approved one or more therapeutic
15 equivalents of a contraceptive supply, a health maintenance organization is not required
16 to cover all those therapeutically equivalent versions in accordance with this
17 subsection, as long as at least one is covered without any deductible, coinsurance,
18 copayment or other cost-sharing requirement in accordance with this subsection.

19 D. Coverage must be provided for the furnishing or dispensing of prescribed
20 contraceptive supplies and nonprescription oral hormonal contraceptive supplies
21 intended to last for a 12-month period, which may be furnished or dispensed all at once
22 or over the course of the 12 months at the discretion of the health care provider for
23 prescribed contraceptive supplies.

24 E. A prescription is not required to obtain a nonprescription oral hormonal
25 contraceptive or nonprescription emergency contraceptive.

26 F. A health maintenance organization shall establish mechanisms to ensure that an
27 enrollee who seeks coverage for a nonprescription oral hormonal contraceptive or
28 nonprescription emergency contraceptive at a pharmacy has the option to obtain the
29 nonprescription oral hormonal contraceptive or nonprescription emergency
30 contraceptive at the point of sale without payment of any cost-sharing amount or to
31 make the purchase at the pharmacy through an out-of-pocket payment at the point of
32 sale and submit a claim for reimbursement to the health maintenance organization. The
33 pharmacy may use a standing order to facilitate billing for a nonprescription oral
34 hormonal contraceptive or nonprescription emergency contraceptive in accordance
35 with this paragraph.

36 **Sec. 12. 24-A MRSA §4247, sub-§5** is enacted to read:

37 **5. Rules.** The superintendent may adopt rules as necessary to implement the
38 requirements of this section, including rules related to mechanisms to ensure coverage for
39 nonprescription oral hormonal contraceptives and nonprescription emergency
40 contraceptives and rules regarding notice to enrollees about how to access coverage for
41 nonprescription oral hormonal contraceptives and nonprescription emergency
42 contraceptives. Rules adopted pursuant to this subsection are routine technical rules as
43 described in Title 5, chapter 375, subchapter 2-A.

1 **Sec. 13. 24-A MRSA §4302, sub-§1, ¶A**, as amended by PL 2009, c. 439, Pt. A,
2 §2, is further amended to read:

3 A. Coverage provisions, benefits and any exclusions by category of service, type of
4 provider and, if applicable, by specific service, including but not limited to the
5 following types of services, exclusions and limitations:

6 (1) Health care services excluded from coverage;

7 (2) Health care services requiring copayments or deductibles paid by enrollees;

8 (3) Restrictions on access to a particular provider type;

9 (4) Health care services that are or may be provided only by referral; ~~and~~

10 (5) Childhood immunizations as recommended by the United States Department
11 of Health and Human Services, Centers for Disease Control and Prevention and
12 the American Academy of Pediatrics; and

13 (6) Coverage requirements for contraceptive supplies, as defined in section 4247,
14 subsection 4, and the procedures an enrollee must follow to access coverage for
15 over-the-counter contraceptive supplies and nonprescription contraceptives at a
16 pharmacy without an out-of-pocket cost at the point of sale or by submitting a claim
17 for reimbursement;

18 **Sec. 14. Application.** This Act applies to all policies, contracts and certificates
19 executed, delivered, issued for delivery, continued or renewed in this State on or after
20 January 1, 2026. For purposes of this Act, all contracts are deemed to be renewed no later
21 than the next yearly anniversary of the contract date.

22 **Sec. 15. Department of Professional and Financial Regulation, Bureau of**
23 **Insurance review.** The Department of Professional and Financial Regulation, Bureau of
24 Insurance shall monitor compliance of health insurance carriers with the requirements for
25 coverage of nonprescription oral hormonal contraceptives and nonprescription emergency
26 contraceptives set forth in this Act and any rules adopted by the bureau to implement the
27 requirements of this Act, including any complaints or barriers to implementation. The
28 bureau shall also review any federal guidance developed in response to the "Request for
29 Information" regarding a proposed regulation to extend the application of the preventive
30 services requirements under Section 2713 of the federal Public Health Service Act to over-
31 the-counter preventive items and services available without a prescription by a health care
32 provider, including contraceptive supplies. No later than November 4, 2026, the bureau
33 shall provide a report to the joint standing committee of the Legislature having jurisdiction
34 over health coverage, insurance and financial services matters with an update on
35 implementation of the requirements of this Act, including recommendations for legislation
36 to improve implementation, and on the status of any proposed federal regulations related
37 to coverage of nonprescription oral hormonal contraceptives and nonprescription
38 emergency contraceptives by health insurance carriers. The joint standing committee of the
39 Legislature having jurisdiction over health coverage, insurance and financial services
40 matters may report out legislation based on the report to the 133rd Legislature in 2027.

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SUMMARY

This bill expands the requirements in current law for coverage of contraceptives to include nonprescription oral hormonal contraceptives and nonprescription emergency contraceptives approved by the federal Food and Drug Administration. The bill provides that a prescription is not required for insurance coverage for nonprescription oral hormonal contraceptives and nonprescription emergency contraceptives and requires insurers to establish mechanisms to ensure that an enrollee who purchases a nonprescription oral hormonal contraceptive or nonprescription emergency contraceptive at a pharmacy has the option to make the purchase pursuant to a standing order issued for billing purposes without a payment required at the point of sale or to make the purchase with a payment at the point of sale and submit a claim for reimbursement to the insurer. The requirements apply beginning January 1, 2026.

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The bill requires health insurance carriers to notify enrollees, at least annually, of the coverage requirements for contraceptive supplies and the procedures an enrollee must follow to access coverage for nonprescription oral hormonal contraceptives and nonprescription emergency contraceptives at a pharmacy without an out-of-pocket cost at the point of sale or by submitting a claim for reimbursement. The bill also authorizes the Department of Professional and Financial Regulation, Bureau of Insurance to adopt rules to implement the provisions and also requires the bureau to monitor implementation by health insurance carriers and to report to the joint standing committee of the Legislature having jurisdiction over health coverage, insurance and financial services matters no later than November 4, 2026.