

1 HOUSE BILL NO. 819
 2 AMENDMENT IN THE NATURE OF A SUBSTITUTE
 3 (Proposed by the House Committee on Appropriations
 4 on _____)
 5 (Patron Prior to Substitute--Delegate Mundon King)

6 A BILL to amend and reenact § 38.2-3407.5:1 of the Code of Virginia, relating to health insurance;
 7 coverage for prescription contraceptives.

8 **Be it enacted by the General Assembly of Virginia:**

9 **1. That § 38.2-3407.5:1 of the Code of Virginia is amended and reenacted as follows:**

10 **§ 38.2-3407.5:1. Coverage for prescription contraceptives.**

11 A. As used in this section:

12 "Contraceptive device" means any device or non-drug product that has been approved by the FDA
 13 to prevent pregnancy.

14 "Contraceptive drug" means any drug approved by the FDA to prevent pregnancy.

15 "FDA" means the U.S. Food and Drug Administration.

16 "Medical need" includes considerations such as severity of side effects, difference in permanence
 17 and reversibility of a contraceptive drug or contraceptive device, or an ability to adhere to the appropriate
 18 use of the item, as determined by the attending health care provider.

19 B. Each (i) insurer proposing to issue individual or group accident and sickness insurance policies
 20 providing hospital, medical and surgical or major medical coverage on an expense incurred basis; (ii)
 21 corporation providing individual or group accident and sickness subscription contracts; and (iii) health
 22 maintenance organization providing a health care plan for health care services, whose policy, contract or
 23 plan, including any certificate or evidence of coverage issued in connection with such policy, contract or
 24 plan, includes coverage for prescription drugs on an outpatient basis, shall offer and make available
 25 provide coverage thereunder for any prescribed contraceptive drug or contraceptive device approved by
 26 the United States Food and Drug Administration for use as a contraceptive.

27 ~~B-C.~~ No insurer, corporation or health maintenance organization shall impose upon any person
28 receiving prescription contraceptive benefits pursuant to this section any (i) copayment, coinsurance
29 payment or fee ~~that is not equally imposed upon all individuals in the same benefit category, class,~~
30 ~~coinsurance level or copayment level receiving benefits for prescription drugs,~~ or (ii) reduction in
31 allowable reimbursement for prescription drug benefits. An insurer, corporation, or health maintenance
32 organization that provides coverage for more than one therapeutic equivalent version of a contraceptive
33 drug or contraceptive device may impose cost-sharing requirements on any such version, provided that at
34 least one therapeutically equivalent version of the contraceptive drug or contraceptive device is available
35 without cost-sharing.

36 D. If a covered individual's health care provider recommends a particular contraceptive drug or
37 contraceptive device for the individual based on a determination of medical need, the insurer, corporation,
38 or health maintenance organization shall defer to the provider's determination and shall provide coverage
39 without cost-sharing for the prescribed contraceptive drug or contraceptive device.

40 E. An insurer, corporation, or health maintenance organization covered by this section shall not
41 impose any burdensome restrictions or delays on the coverage required by this section and shall provide
42 clear information, in writing, about the contraceptive coverage included and excluded from its offered
43 plans available on its website and by mail at the request of a current or potential covered individual.

44 ~~C-F.~~ The provisions of ~~subsection A~~ this section shall not be construed to:

45 1. Require coverage for prescription coverage benefits in any contract, policy or plan that does not
46 otherwise provide coverage for prescription drugs; or

47 2. ~~Preclude the use of closed formularies, provided, however, that such formularies shall include~~
48 ~~oral, implant and injectable contraceptive drugs, intrauterine devices and prescription barrier methods; or~~

49 3. Require coverage for experimental ~~contraceptive drugs~~ contraceptives not approved by the
50 ~~United States Food and Drug Administration~~ FDA.

51 ~~D-G.~~ The provisions of this section shall not apply to short-term travel, accident-only, limited or
52 specified disease policies, or contracts designed for issuance to persons eligible for coverage under Title

53 XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal
54 governmental plans, or to short-term nonrenewable policies of not more than six months' duration.

55 ~~E-H.~~ The provisions of this section shall be applicable to contracts, policies or plans delivered,
56 issued for delivery or renewed in this Commonwealth on and after July 1, 1997.

57 **2. That the provisions of this act shall be applicable to contracts, policies, or health benefit plans**
58 **delivered, issued for delivery, or renewed in the Commonwealth on and after January 1, 2025.**

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