

HOUSE BILL NO. 1999

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice

on \_\_\_\_\_)

(Patron Prior to Substitute--Delegate Kory)

A BILL to amend the Code of Virginia by adding a section numbered 38.2-3418.18:1, relating to coverage for certain health care services, drugs, devices, products, and procedures related to reproductive health.

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

**1. That the Code of Virginia is amended by adding a section numbered 38.2-3418.18:1 as follows:**

**§ 38.2-3418.18:1. Coverage for reproductive health services.**

A. As used in this section:

"Carrier" means an insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; a corporation providing individual or group accident and sickness subscription contracts; a health maintenance organization providing a health care plan for health care services; or any other entity subject to the insurance laws and regulations of the Commonwealth and subject to the jurisdiction of the Commission that contracts or offers to contract to provide a health benefit plan.

"Contraceptives" means health care services, drugs, devices, products, or medical procedures to prevent a pregnancy.

"Covered person" means a policyholder, subscriber, enrollee, participant, or other individual covered by a health benefit plan.

"Health benefit plan" means any accident and health insurance policy or certificate, health services plan contract, health maintenance organization subscriber contract, plan provided by a multiple employer welfare arrangement (MEWA), or plan provided by another benefit arrangement. "Health benefit plan" does not mean accident-only, credit, or disability insurance; short-term travel, accident-only, or limited or

27 specified disease policies or contracts; coverage of federal employee health plans, pursuant to contracts  
28 with the United States government; policies or contracts designed for issuance to persons eligible for  
29 coverage under Title XVIII of the Social Security Act, known as Medicare; long-term care insurance;  
30 Medicaid coverage; dental-only or vision-only insurance; specified disease insurance; hospital  
31 confinement indemnity coverage; limited benefit health coverage; short-term, limited-duration coverage;  
32 coverage issued as a supplement to liability insurance; insurance arising out of a workers' compensation  
33 or similar law; automobile medical payment insurance; medical expense and loss of income benefits; or  
34 insurance under which benefits are payable with or without regard to fault and that is statutorily required  
35 to be contained in any liability insurance policy or equivalent self-insurance.

36 "Provider" means a facility, physician, or other type of health care practitioner licensed, accredited,  
37 certified, or authorized by the Commonwealth to deliver or furnish health care items or services.

38 "Religious employer" means an employer:

- 39 1. Whose purpose is the inculcation of religious values;
- 40 2. That primarily employs persons who share the religious tenets of the employer;
- 41 3. That primarily serves persons who share the religious tenets of the employer; and
- 42 4. That is a nonprofit organization under § 6033(a)(3)(A)(i) or (iii) of the Internal Revenue Code.

43 "Reproductive health services" means all of the following services, drugs, devices, products, and  
44 procedures:

- 45 1. Well-woman preventive visits consistent with guidelines published by the U.S. Health  
46 Resources and Services Administration.
- 47 2. Counseling for sexually transmitted infections, including human immunodeficiency virus and  
48 acquired immune deficiency syndrome.
- 49 3. Screening for:
  - 50 a. Chlamydia;
  - 51 b. Gonorrhea;
  - 52 c. Hepatitis B;
  - 53 d. Hepatitis C;

- 54 e. Human immunodeficiency virus and acquired immune deficiency syndrome;
- 55 f. Human papillomavirus;
- 56 g. Syphilis;
- 57 h. Anemia;
- 58 i. Urinary tract infection;
- 59 j. Pregnancy;
- 60 k. Rh incompatibility;
- 61 l. Gestational diabetes;
- 62 m. Osteoporosis;
- 63 n. Breast cancer; and
- 64 o. Cervical cancer.
- 65 4. Screening to determine whether counseling related to the BRCA1 or BRCA2 genetic mutations
- 66 is indicated and counseling related to the BRCA1 or BRCA2 genetic mutations if indicated.
- 67 5. Screening and appropriate counseling or interventions for tobacco use and for domestic and
- 68 interpersonal violence.
- 69 6. Folic acid supplements.
- 70 7. Breastfeeding support, counseling, and supplies.
- 71 8. Counseling regarding the use of preventive medications (chemoprevention) to reduce breast
- 72 cancer risk in women at high risk of developing breast cancer.
- 73 9. Any contraceptive drug, device, or product approved by the U.S. Food and Drug Administration,
- 74 subject to all of the following:
- 75 a. If there is a therapeutic equivalent of a contraceptive drug, device, or product approved by the
- 76 U.S. Food and Drug Administration, a health benefit plan shall provide at its option coverage either for
- 77 the requested contraceptive drug, device, or product or for one or more therapeutic equivalents of the
- 78 requested drug, device, or product;

79 b. If a contraceptive drug, device, or product covered by the health benefit plan is deemed  
80 medically inadvisable by the covered person's provider, the health benefit plan shall cover an alternative  
81 contraceptive drug, device, or product prescribed by the provider;

82 c. A health benefit plan shall pay pharmacy claims for reimbursement of all contraceptive drugs  
83 available for over-the-counter sale that are approved by the U.S. Food and Drug Administration; and

84 d. A health benefit plan may not infringe upon a covered person's choice of contraceptive drug,  
85 device, or product and may not require prior authorization, step therapy, or other utilization control  
86 techniques for medically appropriate covered contraceptive drugs, devices, or other products approved by  
87 the U.S. Food and Drug Administration.

88 10. Voluntary sterilization.

89 11. As a single claim or combined with other claims for covered services provided on the same  
90 day:

91 a. Patient education and counseling on contraception and sterilization; and

92 b. Services related to sterilization or the administration and monitoring of contraceptive drugs,  
93 devices, and products, including (i) management of side effects; (ii) counseling for continued adherence  
94 to a prescribed regimen; (iii) device insertion and removal; and (iv) provision of alternative contraceptive  
95 drugs, devices, or products deemed medically appropriate in the judgment of the covered person's  
96 provider.

97 12. Any additional preventive services for women that are required to be covered without cost  
98 sharing under 42 U.S.C. § 300gg-13, as identified by the U.S. Preventive Services Task Force or the  
99 Health Resources and Services Administration of the U.S. Department of Health and Human Services as  
100 of January 1, 2019.

101 "Reproductive health services" does not include abortion services, provided that such exclusion  
102 shall not apply to an abortion performed (i) when the life of the mother is endangered by a physical  
103 disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or  
104 arising from the pregnancy itself, or (ii) when the pregnancy is the result of an alleged act of rape or incest.

105 B. Notwithstanding the provisions of § 38.2-3419, each carrier shall provide coverage, as provided  
106 in this section, for reproductive health services under any health benefit plan sold or offered for sale by  
107 the carrier in the Commonwealth.

108 C. Coverage for reproductive health services shall be provided without any deduction for  
109 coinsurance, copayments, or any other cost-sharing amounts.

110 D. A provider shall be reimbursed for providing the reproductive health services required to be  
111 covered under this section without any deduction for coinsurance, copayments, or any other cost-sharing  
112 amounts.

113 E. Except as authorized under this section, a health benefit plan may not impose any restrictions  
114 or delays on the coverage required by this section.

115 F. This section does not prohibit a carrier from using reasonable medical management techniques  
116 to determine the frequency, method, treatment, or setting for the coverage of reproductive health services,  
117 other than coverage required by subdivision 9 of the definition of reproductive health services in  
118 subsection A, if the techniques:

119 1. Are consistent with the coverage requirements of this section; and  
120 2. Do not result in the wholesale or indiscriminate denial of coverage for a reproductive health  
121 service.

122 G. This section does not exclude coverage for contraceptive drugs, devices, or products prescribed  
123 by a provider, acting within the provider's scope of practice, for:

124 1. Reasons other than contraceptive purposes, such as decreasing the risk of ovarian cancer or  
125 eliminating symptoms of menopause; or  
126 2. Contraception that is necessary to preserve the life or health of a covered person.

127 H. This section does not require a health benefit plan to cover:

128 1. Experimental or investigational treatments;  
129 2. Clinical trials or demonstration projects, except as provided in § 38.2-3418.8 or 38.2-3453;  
130 3. Treatments that do not conform to acceptable and customary standards of medical practice; or  
131 4. Treatments for which there is insufficient data to determine efficacy.

132 I. If a reproductive health service required to be covered by this section is provided by an out-of-  
133 network provider, the health benefit plan shall cover the reproductive health service without imposing any  
134 cost-sharing requirement on the covered person if:

135 1. There is no in-network provider to furnish the reproductive health service that is geographically  
136 accessible or accessible in a reasonable amount of time, as determined in a manner consistent with  
137 requirements for provider networks; or

138 2. An in-network provider is unable or unwilling to provide the reproductive health service in a  
139 timely manner.

140 J. A carrier may offer to a religious employer a health benefit plan that does not include coverage  
141 for contraceptives that are contrary to the religious employer's religious tenets only if the carrier notifies  
142 in writing all employees who may be enrolled in the health benefit plan of the contraceptives the employer  
143 refuses to cover for religious reasons.

144 K. A carrier that is subject to this section shall make readily accessible to covered persons and  
145 potential covered persons, in a consumer-friendly format, information about the coverage of  
146 contraceptives by each health benefit plan and the coverage of other services, drugs, devices, products,  
147 and procedures within the scope of reproductive health services. The carrier shall provide the information  
148 on the carrier's website and in writing upon request by a covered person or potential covered person.

149 L. A covered person shall not, on the basis of actual or perceived race, color, national origin, sex,  
150 sexual orientation, gender identity, age, or disability, be excluded from participation in, be denied the  
151 benefits of, or otherwise be subjected to discrimination in the coverage of or payment for reproductive  
152 health services by any carrier with respect to any health benefit plan issued or delivered in the  
153 Commonwealth. A violation of this subsection shall be considered an unfair trade practice under Chapter  
154 5 (§ 38.2-500 et seq.) and subject to the penalties contained in that chapter.

155 M. The requirements of this section shall apply to all health benefit plans delivered, issued for  
156 delivery, reissued, or extended in the Commonwealth on and after January 1, 2024, or at any time  
157 thereafter when any term of the health benefit plan is changed or any premium adjustment is made thereto.

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