

SB3226



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3226

Introduced 2/11/2020, by Sen. Laura Fine

SYNOPSIS AS INTRODUCED:

215 ILCS 5/356z.4

Amends the Illinois Insurance Code to prohibit an organization that provides group policies of accident and health insurance which include coverage for contraceptive services from claiming an exemption from the requirement to cover contraceptive services based on a religious or moral objection. Allows an organization that provides group policies of accident and health insurance to request an accommodation from the requirement to cover contraceptive services based on a religious or moral objection, if the inculcation of religious values is the purpose of the organization, the organization primarily employs and serves persons who share the religious tenets of the organization, and the organization is a nonprofit religious entity under federal law. Effective immediately.

LRB101 17513 BMS 66924 b

A BILL FOR

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. The provisions of this
4 paragraph do not apply to coverage of voluntary male
5 sterilization procedures to the extent such coverage would
6 disqualify a high-deductible health plan from eligibility for a
7 health savings account pursuant to the federal Internal Revenue
8 Code, 26 U.S.C. 223.

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

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

1 (7) (A) An organization that provides group policies of
2 accident and health insurance may not claim an exemption from
3 the requirement to cover contraceptive services based on a
4 religious or moral objection.

5 (B) An organization that provides group policies of
6 accident and health insurance may request an accommodation from
7 the requirement to cover contraceptive services based on a
8 religious or moral objection if it meets all of the following
9 criteria:

10 (i) the inculcation of religious values is the purpose
11 of the organization;

12 (ii) the organization primarily employs persons who
13 share the religious tenets of the organization;

14 (iii) the organization primarily serves persons who
15 share the religious tenets of the organization; and

16 (iv) the organization is a nonprofit organization as
17 described in Section 6033(a) (1) and (a) (3) (A) (i) or (iii)
18 of the federal Internal Revenue Code, as amended.

19 (b) This subsection (b) shall become operative if and only
20 if subsection (a) becomes inoperative.

21 An individual or group policy of accident and health
22 insurance amended, delivered, issued, or renewed in this State
23 after the date this subsection (b) becomes operative that
24 provides coverage for outpatient services and outpatient
25 prescription drugs or devices must provide coverage for the
26 insured and any dependent of the insured covered by the policy

1 for all outpatient contraceptive services and all outpatient
2 contraceptive drugs and devices approved by the Food and Drug
3 Administration. Coverage required under this Section may not
4 impose any deductible, coinsurance, waiting period, or other
5 cost-sharing or limitation that is greater than that required
6 for any outpatient service or outpatient prescription drug or
7 device otherwise covered by the policy.

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

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

16 (c) (Blank).

17 (d) If a plan or issuer utilizes a network of providers,
18 nothing in this Section shall be construed to require coverage
19 or to prohibit the plan or issuer from imposing cost-sharing
20 for items or services described in this Section that are
21 provided or delivered by an out-of-network provider, unless the
22 plan or issuer does not have in its network a provider who is
23 able to or is willing to provide the applicable items or
24 services.

25 (Source: P.A. 100-1102, eff. 1-1-19; 101-13, eff. 6-12-19.)

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.