SENATE BILL 421

AN ACT relative to insurance coverage for prescription contraceptives.


COMMITTEE: Commerce

ANALYSIS

This bill clarifies insurance coverage for prescription contraceptive drugs and prescription contraceptive devices and for contraceptive services.

Explanation: Matter added to current law appears in bold italics. Matter removed from current law appears in brackets and struck through. Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.
STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eighteen

AN ACT relative to insurance coverage for prescription contraceptives.

Be it Enacted by the Senate and House of Representatives in General Court convened:

361:1 New Section; Coverage for Prescription Contraceptive Devices and for Contraceptive Services. Amend RSA 415 by inserting after section 6-v the following new section:

415:6-w Coverage for Prescription Contraceptive Drugs and Prescription Contraceptive Devices and for Contraceptive Services. Each insurer that issues or renews any individual policy of accident or health insurance providing benefits for medical or hospital expenses, shall provide to certificate holders of such insurance, who are residents of this state, coverage for outpatient contraceptive services under the same terms and conditions as for other outpatient services. "Outpatient contraceptive services" means consultations, examinations, and medical services, provided on an outpatient basis and related to the use of contraceptive methods to prevent pregnancy which have been approved by the U.S. Food and Drug Administration. Each insurer that issues or renews any individual policy of accident or health insurance providing benefits for medical or hospital expenses shall cover all prescription contraceptive drugs and contraceptive devices approved by the U.S. Food and Drug Administration. Coverage shall include contraceptives dispensed in a quantity intended to last for a 12-month period if prescribed in that quantity. An insurer shall not impose utilization review requirements or other limitations to control the prescribing or dispensing of contraceptives to an amount that is less than a 12-month supply, if that quantity is prescribed. An insurer shall not be required to cover more than one 12-month contraceptive prescription in a single dispensing per plan year. A deductible, copayment, coinsurance, or other cost-sharing requirement shall not be imposed on the coverage of prescription contraceptive drugs and contraceptive devices approved by the FDA under this section. Notwithstanding any other provision of law, if there is a therapeutic equivalent of a drug or device for an FDA-approved contraceptive method, an insurer may impose cost-sharing requirements as long as at least one drug or device for that method is available without cost-sharing; provided that if an individual's provider recommends a particular FDA-approved contraceptive drug or device based on a medical determination, the insurer shall provide coverage for the prescribed
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contraceptive drug or device without cost-sharing. Nothing in this section shall be
casted as altering the terms and conditions of a contract relating to prescription
drugs and outpatient services. Notwithstanding any provision of law or rule to the
contrary, the coverage under this section shall apply to the medical assistance program,
pursuant to RSA 161 and RSA 167.

361:2 Coverage for Prescription Contraceptive Drugs and Prescription
Contraceptive Devices and for Contraceptive Services. Amend RSA 415:18-i to read as
follows:

415:18-i Coverage for Prescription Contraceptive Drugs and Prescription
Contraceptive Devices and for Contraceptive Services. Each insurer that issues or
renews any group policy of accident or health insurance providing benefits for medical
or hospital expenses, which provides coverage for outpatient services shall provide to
each group, or to the portion of each group comprised of certificate holders of such
insurance who are residents of this state, coverage for outpatient contraceptive services
under the same terms and conditions as for other outpatient services. "Outpatient
contraceptive services" means consultations, examinations, and medical services,
provided on an outpatient basis and related to the use of contraceptive methods to
prevent pregnancy which [has] have been approved by the U.S. Food and Drug
Administration. Each insurer that issues or renews any policy of group accident or
health insurance providing benefits for medical or hospital expenses [which provides a
prescription rider] shall cover all prescription contraceptive drugs and prescription
contraceptive devices approved by the U.S. Food and Drug Administration [under the
same terms and conditions as other prescription drugs]. Coverage shall include
contraceptives dispensed in a quantity intended to last for a 12-month period, if
prescribed in that quantity. An insurer shall not impose utilization review
requirements or other limitations to control the prescribing or dispensing of
contraceptives to an amount that is less than a 12-month supply, if that quantity is
prescribed. An insurer shall not be required to cover more than one 12-month
contraceptive prescription in a single dispensing per plan year. A deductible,
copayment, coinsurance, or other cost-sharing requirement shall not be imposed on the
coverage of prescription contraceptive drugs and contraceptive devices approved by the
FDA under this section. Notwithstanding any other provision of law, if there is a
therapeutic equivalent of a drug or device for an FDA-approved contraceptive method,
an insurer may impose cost-sharing requirements as long as at least one drug or device
for that method is available without cost-sharing; provided that if an individual's
provider recommends a particular FDA-approved contraceptive drug or device based on
a medical determination, the insurer shall provide coverage for the prescribed
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**contraceptive drug or device without cost-sharing.** Nothing in this section shall be
construed as altering the terms and conditions of a contract relating to prescription
drugs and outpatient services. **Notwithstanding any provision of law or rule to the**
**contrary, the coverage under this section shall apply to the medical assistance program,**
pursuant to RSA 161 and RSA 167.

361:3 Coverage for Prescription Contraceptive Drugs and Prescription
Contraceptive Devices and for Contraceptive Services; Health Service Corporations.
Amend RSA 420-A:17-c to read as follows:

420-A:17-c Coverage for Prescription Contraceptive Drugs and Prescription
Contraceptive Devices and for Contraceptive Services. Every health service corporation
and every other similar corporation licensed under the laws of another state that issues
or renews any policy of group accident or health insurance providing benefits for
medical or hospital expenses, which provides coverage for outpatient services shall
provide to each group, or to the portion of each group comprised of certificate holders of
such insurance who are residents of this state, coverage for outpatient contraceptive
services under the same terms and conditions as for other outpatient services.
"Outpatient contraceptive services" means consultations, examinations, and medical
services, provided on an outpatient basis and related to the use of contraceptive
methods to prevent pregnancy which [has] **have** been approved by the U.S. Food and
Drug Administration. Each health service corporation and every other similar
corporation licensed under the laws of a different state that issues or renews any group
policy of accident or health insurance providing benefits for medical or hospital
expenses [which provides a prescription rider] shall cover all prescription contraceptive
drugs and prescription contraceptive devices approved by the U.S. Food and Drug
Administration [under the same terms and conditions as other prescription drugs].

Coverage shall include contraceptives dispensed in a quantity intended to last for a 12-
month period, if prescribed in that quantity. An insurer shall not impose utilization
review requirements or other limitations to control the prescribing or dispensing of
contraceptives to an amount that is less than a 12-month supply, if that quantity is
prescribed. An insurer shall not be required to cover more than one 12-month
contraceptive prescription in a single dispensing per plan year. A deductible,
copayment, coinsurance, or other cost-sharing requirement shall not be imposed on the
coverage of prescription contraceptive drugs and contraceptive devices approved by the
FDA under this section. **Notwithstanding any other provision of law, if there is a**
therapeutic equivalent of a drug or device for an FDA-approved contraceptive method,
an insurer may impose cost-sharing requirements as long as at least one drug or device
for that method is available without cost-sharing; provided that if an individual's
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provider recommends a particular FDA-approved contraceptive drug or device based on
a medical determination, the insurer shall provide coverage for the prescribed
contraceptive drug or device without cost-sharing. Nothing in this section shall be
construed as altering the terms and conditions of a contract relating to prescription
drugs and outpatient services. Notwithstanding any provision of law or rule to the
contrary, the coverage under this section shall apply to the medical assistance program,
pursuant to RSA 161 and RSA 167.

361:4 Health Services Corporations; Applicable Statutes. Amend RSA 420-A:2 to read
as follows:

420-A:2 Applicable Statutes. Every health service corporation shall be governed by
this chapter and the relevant provisions of RSA 161-H, and shall be exempt from this
title except for the provisions of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA
415-A, RSA 415-F, RSA 415:6, II(4), RSA 415:6-g, RSA 415:6-k, RSA 415:6-m, RSA 415:6-o,
RSA 415:6-r, RSA 415:6-u, RSA 415:6-v, RSA 415:6-w, RSA 415:18, V, RSA 415:18, XVI and
XVII, RSA 415:18, VII-a, RSA 415:18-a, RSA 415:18-i, RSA 415:18-j, RSA 415:18-o, RSA
415:18-r, RSA 415:18-t, RSA 415:18-u, RSA 415:18-v, RSA 415:18-w, RSA 415:18-z, RSA
415:18-aa, RSA 415:22, RSA 417, RSA 417-E, RSA 420-J, and all applicable provisions of
title XXXVII wherein such corporations are specifically included. Every health service
corporation and its agents shall be subject to the fees prescribed for health service
corporations under RSA 400-A:29, VII.

361:5 Health Services Corporations; Applicable Statutes; Effective January 1, 2021.

Amend RSA 420-A:2 to read as follows:

420-A:2 Applicable Statutes. Every health service corporation shall be governed by
this chapter and the relevant provisions of RSA 161-H, and shall be exempt from this
title except for the provisions of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA
415-A, RSA 415-F, RSA 415:6, II(4), RSA 415:6-g, RSA 415:6-k, RSA 415:6-m, RSA 415:6-o,
RSA 415:6-r, RSA 415:6-u, RSA 415:6-v, RSA 415:6-w, RSA 415:18, V, RSA 415:18, XVI and
XVII, RSA 415:18, VII-a, RSA 415:18-a, RSA 415:18-i, RSA 415:18-j, RSA 415:18-o, RSA
415:18-r, RSA 415:18-t, RSA 415:18-u, RSA 415:18-v, RSA 415:18-w, RSA 415:18-z, RSA
415:18-aa, RSA 415:22, RSA 417, RSA 417-E, RSA 420-J, and all applicable provisions of
title XXXVII wherein such corporations are specifically included. Every health service
corporation and its agents shall be subject to the fees prescribed for health service
corporations under RSA 400-A:29, VII.

361:6 Health Maintenance Organizations; Statutory Construction. Amend RSA 420-
B:20, III to read as follows:

III. The requirements of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA
415:6-g, RSA 415:6-m, RSA 415:6-o, RSA 415:6-r, RSA 415:6-t, RSA 415:6-u, RSA 415:6-v, RSA
361:7 Health Maintenance Organizations; Statutory Construction; Effective January 1, 2021. Amend RSA 420-B:20, III to read as follows:


361:8 Contingent Version; Coverage for Prescription Contraceptive Devices and for Contraceptive Services. RSA 415:6-w is repealed and reenacted to read as follows:

415:6-w Coverage for Prescription Contraceptive Drugs and Prescription Contraceptive Devices and for Contraceptive Services. Each insurer that issues or renews any individual policy of accident or health insurance providing benefits for medical or hospital expenses, shall provide to certificate holders of such insurance, who are residents of this state, coverage for outpatient contraceptive services under the same terms and conditions as for other outpatient services. "Outpatient contraceptive services" means consultations, examinations, and medical services, provided on an outpatient basis, including the initial screening provided through a pharmacy pursuant to RSA 318:47-l at a rate established by contract between the pharmacy and the insurer or its pharmacy benefits manager, and related to the use of contraceptive methods to prevent pregnancy which have been approved by the U.S. Food and Drug Administration. Each insurer that issues or renews any individual policy of accident or health insurance providing benefits for medical or hospital expenses shall cover all prescription contraceptive drugs and contraceptive devices approved by the U.S. Food and Drug Administration. Coverage shall include contraceptives dispensed in a quantity intended to last for a 12-month period if prescribed in that quantity. An insurer shall not impose utilization review requirements or other limitations to control the prescribing or dispensing of contraceptives to an amount that is less than a 12-month supply, if that quantity is prescribed. An insurer shall not be required to cover more than one 12-month contraceptive prescription in a single dispensing per plan year. A deductible, copayment, coinsurance, or other cost-sharing requirement shall not be imposed on the coverage of prescription contraceptive drugs and contraceptive devices approved by the FDA under this section. Notwithstanding any other provision of law, if
there is a therapeutic equivalent of a drug or device for an FDA-approved contraceptive method, an insurer may impose cost-sharing requirements as long as at least one drug or device for that method is available without cost-sharing; provided that if an individual's provider recommends a particular FDA-approved contraceptive drug or device based on a medical determination, the insurer shall provide coverage for the prescribed contraceptive drug or device without cost-sharing. Nothing in this section shall be construed as altering the terms and conditions of a contract relating to prescription drugs and outpatient services. Notwithstanding any provision of law or rule to the contrary, the coverage under this section shall apply to the medical assistance program, pursuant to RSA 161 and RSA 167.

361:9 Contingent Version; Coverage for Prescription Contraceptive Drugs and Prescription Contraceptive Devices and for Contraceptive Services. Amend RSA 415:18-i to read as follows:

415:18-i Coverage for Prescription Contraceptive Drugs and Prescription Contraceptive Devices and for Contraceptive Services. Each insurer that issues or renews any group policy of accident or health insurance providing benefits for medical or hospital expenses, which provides coverage for outpatient services shall provide to each group, or to the portion of each group comprised of certificate holders of such insurance who are residents of this state, coverage for outpatient contraceptive services under the same terms and conditions as for other outpatient services. "Outpatient contraceptive services" means consultations, examinations, and medical services, provided on an outpatient basis, including the initial screening provided through a pharmacy pursuant to RSA 318:47-l at a rate established by contract between the pharmacy and the insurer or its pharmacy benefits manager, and related to the use of contraceptive methods to prevent pregnancy which [has] have been approved by the U.S. Food and Drug Administration. Each insurer that issues or renews any policy of group accident or health insurance providing benefits for medical or hospital expenses [which provides a prescription rider] shall cover all prescription contraceptive drugs and prescription contraceptive devices approved by the U.S. Food and Drug Administration [under the same terms and conditions as other prescription drugs].

Coverage shall include contraceptives dispensed in a quantity intended to last for a 12-month period, if prescribed in that quantity. An insurer shall not impose utilization review requirements or other limitations to control the prescribing or dispensing of contraceptives to an amount that is less than a 12-month supply, if that quantity is prescribed. An insurer shall not be required to cover more than one 12-month contraceptive prescription in a single dispensing per plan year. A deductible, copayment, coinsurance, or other cost-sharing requirement shall not be imposed on the
coverage of prescription contraceptive drugs and contraceptive devices approved by the
FDA under this section. Notwithstanding any other provision of law, if there is a
therapeutic equivalent of a drug or device for an FDA-approved contraceptive method,
an insurer may impose cost-sharing requirements as long as at least one drug or device
for that method is available without cost-sharing; provided that if an individual's
provider recommends a particular FDA-approved contraceptive drug or device based on
a medical determination, the insurer shall provide coverage for the prescribed
contraceptive drug or device without cost-sharing. Nothing in this section shall be
construed as altering the terms and conditions of a contract relating to prescription
drugs and outpatient services. Notwithstanding any provision of law or rule to the
contrary, the coverage under this section shall apply to the medical assistance program,
pursuant to RSA 161 and RSA 167.

361:10 Contingent Version; Coverage for Prescription Contraceptive Drugs and
Prescription Contraceptive Devices and for Contraceptive Services; Health Service
Corporations. Amend RSA 420-A:17-c to read as follows:

420-A:17-c Coverage for Prescription Contraceptive Drugs and Prescription
Contraceptive Devices and for Contraceptive Services. Every health service corporation
and every other similar corporation licensed under the laws of another state that issues
or renews any policy of group accident or health insurance providing benefits for
medical or hospital expenses, which provides coverage for outpatient services shall
provide to each group, or to the portion of each group comprised of certificate holders of
such insurance who are residents of this state, coverage for outpatient contraceptive
services under the same terms and conditions as for other outpatient services.
"Outpatient contraceptive services" means consultations, examinations, and medical
services, provided on an outpatient basis, including the initial screening provided
through a pharmacy pursuant to RSA 318:47-l at a rate established by contract between
the pharmacy and the insurer or its pharmacy benefits manager, and related to the use
of contraceptive methods to prevent pregnancy which [has] have been approved by the
U.S. Food and Drug Administration. Each health service corporation and every other
similar corporation licensed under the laws of a different state that issues or renews any
group policy of accident or health insurance providing benefits for medical or hospital
expenses [which provides a prescription rider] shall cover all prescription contraceptive
drugs and prescription contraceptive devices approved by the U.S. Food and Drug
Administration [under the same terms and conditions as other prescription drugs].
Coverage shall include contraceptives dispensed in a quantity intended to last for a 12-
month period, if prescribed in that quantity. An insurer shall not impose utilization
review requirements or other limitations to control the prescribing or dispensing of
contraceptives to an amount that is less than a 12-month supply, if that quantity is prescribed. An insurer shall not be required to cover more than one 12-month contraceptive prescription in a single dispensing per plan year. A deductible, copayment, coinsurance, or other cost-sharing requirement shall not be imposed on the coverage of prescription contraceptive drugs and contraceptive devices approved by the FDA under this section. Notwithstanding any other provision of law, if there is a therapeutic equivalent of a drug or device for an FDA-approved contraceptive method, an insurer may impose cost-sharing requirements as long as at least one drug or device for that method is available without cost-sharing; provided that if an individual's provider recommends a particular FDA-approved contraceptive drug or device based on a medical determination, the insurer shall provide coverage for the prescribed contraceptive drug or device without cost-sharing. Nothing in this section shall be construed as altering the terms and conditions of a contract relating to prescription drugs and outpatient services. Notwithstanding any provision of law or rule to the contrary, the coverage under this section shall apply to the medical assistance program, pursuant to RSA 161 and RSA 167.

361:11 Contingency. If HB 1822 of the 2018 legislative session becomes law, sections 1, 2, and 3 of this act shall not take effect and sections 8, 9, and 10 shall take effect January 1, 2019 at 12:01 a.m. If HB 1822 does not become law, sections 1, 2, and 3 shall take effect January 1, 2019 and sections 8, 9, and 10 shall not take effect.

361:12 Effective Date.

I. Sections 1, 2, 3, 8, 9, and 10 shall take effect as provided in section 11 of this act.
II. Sections 5 and 7 of this act shall take effect January 1, 2021 at 12:02 a.m.
III. The remainder of this act shall take effect January 1, 2019.

Approved: July 02, 2018
Effective Date:
I. Sections 1,2,3,8,9 and 10 shall take effect as provided in section 11.
II. Sections 5 and7 shall take effect January 1, 2021 at 12:02 a.m.
III. Remainder shall take effect January 1, 2019.