CHAPTER 1092

An Act to amend and reenact §§ 38.2-3407.5:1 and 38.2-3407.5:2 of the Code of Virginia, relating to health insurance; coverage for contraceptive drugs and devices.

[H 1182]

Approved April 22, 2026

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-3407.5:1 and 38.2-3407.5:2 of the Code of Virginia are amended and reenacted as follows:

§ 38.2-3407.5:1. Coverage for contraceptives.

A. ~~Each~~ *As used in this section:*

"Contraceptive device" means any device or non-drug product that has been approved as a contraceptive by the FDA.

"Contraceptive drug" means any drug approved as a contraceptive by the FDA.

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

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

"Therapeutically equivalent version" means a drug or device that has the same clinical effect and safety profile as another drug or device and that meets the criteria for therapeutic equivalence as determined by the FDA.

B. Notwithstanding the provisions of § 38.2-3419, each (i) 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; (ii) corporation providing individual or group accident and sickness subscription contracts; and (iii) health maintenance organization providing a health care plan for health care services, whose policy, contract or plan, including any certificate or evidence of coverage issued in connection with such policy, contract or plan, includes coverage for prescription drugs on an outpatient basis, shall ~~offer and make available~~ *provide* coverage thereunder for ~~any prescribed drug or device approved by the United States Food and Drug Administration for use as a~~ contraceptive *drugs and contraceptive devices, including those available over-the-counter, with or without a prescription, in accordance with §§ 38.2-3442 and 38.2-3438.*

~~B.~~ *C.* No insurer, corporation, or health maintenance organization shall impose upon any person receiving ~~prescription~~ contraceptive benefits pursuant to this section any ~~(i)~~ copayment, coinsurance payment, ~~or~~ fee ~~that is not equally imposed upon all individuals in the same benefit category, class, coinsurance level or copayment level receiving benefits for prescription drugs~~, or ~~(ii)~~ reduction in allowable reimbursement for prescription drug benefits.

D. Notwithstanding the provisions of subsection C, an insurer, corporation, or health maintenance organization that provides coverage for more than one therapeutically equivalent version of a contraceptive drug or contraceptive device may impose cost-sharing requirements on any such version, provided that at least one therapeutically equivalent version of such contraceptive drug or contraceptive device is available without cost-sharing. However, if a covered individual's health care provider recommends a particular contraceptive drug or contraceptive device for such individual based on a determination of medical need, an insurer, corporation, or health maintenance organization shall provide coverage for the recommended contraceptive drug or contraceptive device without cost-sharing.

E. An insurer, corporation, or health maintenance organization to which the provisions of this section apply shall not impose any burdensome restrictions or delays on the coverage required by this section, including a requirement that a covered individual (i) obtain a prescription in order to receive coverage for contraceptive drugs and contraceptive devices available over-the-counter or (ii) make any formal request for such coverage other than a pharmacy claim or an exceptions form for coverage of non-preferred products with no cost sharing, and shall provide clear, written, and complete information in at least one location about the contraceptive coverage included and excluded from its offered plans on its website and by mail at the request of a current or potential covered individual.

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

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

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

~~3.~~ Require coverage for experimental ~~contraceptive drugs~~ *contraceptives* not approved by the ~~United~~

~~States Food and Drug Administration~~ *FDA*.

~~D.~~ *G.* The provisions of this section shall not apply to short-term travel, accident-only, limited or specified disease policies, or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans, or to short-term nonrenewable policies of not more than six months' duration.

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

§ 38.2-3407.5:2. Reimbursements for dispensing hormonal contraceptives.

A. As used in this section:

"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; coverage of Medicare services or federal employee health plans, pursuant to contracts with the United States government; Medicare supplement or long-term care insurance; Medicaid coverage; dental only or vision only insurance; specified disease insurance; hospital confinement indemnity coverage; limited benefit health coverage; short-term limited duration coverage; coverage issued as a supplement to liability insurance; insurance arising out of a workers' compensation or similar law; automobile medical payment insurance; medical expense and loss of income benefits; or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

"Health carrier" means an 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.

"Hormonal contraceptive" means a medication taken to prevent pregnancy by means of ingestion of hormones, including medications containing estrogen or progesterone, that is self-administered~~, requires a prescription,~~ and is approved by the U.S. Food and Drug Administration for such purpose.

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

B. Any health benefit plan that is amended, renewed, or delivered on or after January 1, 2018, that provides coverage for hormonal contraceptives shall *(i)* cover up to a 12-month supply of hormonal contraceptives when dispensed or furnished at one time for a covered person by a provider or pharmacy or at a location licensed or otherwise authorized to dispense drugs or supplies *and (ii) for hormonal contraceptives available over-the-counter, provide point-of-sale coverage without cost-sharing at in-network pharmacies.*

C. Nothing in this section shall be construed to require a provider to prescribe, furnish, or dispense 12 months of self-administered hormonal contraceptives at one time.

D. A health benefit plan that provides coverage for hormonal contraceptives, in the absence of clinical contraindications, shall not impose utilization controls or other forms of medical management limiting the supply of hormonal contraceptives that may be dispensed or furnished by a provider or pharmacy, or at a location licensed or otherwise authorized to dispense drugs or supplies, to an amount that is less than a 12-month supply.

E. This section shall not be construed to exclude coverage for hormonal contraceptives as prescribed by a provider, acting within his scope of practice, for reasons other than contraceptive purposes, such as decreasing the risk of ovarian cancer or eliminating symptoms of menopause, or for contraception that is necessary to preserve the life or health of an enrollee.

F. Nothing in this section shall be construed to require a health carrier to cover hormonal contraceptives provided by a provider or pharmacy or at a location licensed or otherwise authorized to dispense drugs or supplies, that does not participate in the health carrier's provider network, except as may be otherwise authorized or required by state law or by the plan's policies governing out-of-network coverage.

2. That the provisions of this act shall apply only to individual or group accident and sickness insurance policies, individual or group accident and sickness subscription contracts, or health care plans for health care services delivered, issued for delivery, or renewed in the Commonwealth on or after January 1, 2027.