

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 33

(Senator Reilly, *et al.*)

Finance

Health and Government Operations

Health Insurance - Coverage for Fertility Awareness-Based Methods

This bill requires an insurer, nonprofit health service plan, or health maintenance organization (collectively known as carriers) that provides hospital, medical, or surgical benefits to provide coverage for instruction by a licensed health care provider on “fertility awareness-based methods.” With the exception of a grandfathered health plan, a carrier may not apply a copayment, coinsurance requirement, or deductible for this coverage. **The bill takes effect January 1, 2019, and applies to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after that date.**

Fiscal Summary

State Effect: Minimal increase in special fund revenues for the Maryland Insurance Administration (MIA) in FY 2019 from the \$125 rate and form filing fee. Review of filings can likely be handled with existing MIA resources. Likely no impact on the State Employee and Retiree Health and Welfare Benefits Program (State Plan), as discussed below.

Local Effect: Minimal increase in health insurance costs for those local governments that purchase fully insured plans to the extent coverage is not already included. No effect on revenues.

Small Business Effect: Minimal; however, health insurance costs may increase for small businesses that purchase fully insured plans that do not already include such coverage.

Analysis

Bill Summary: “Fertility awareness-based methods” means methods of identifying times of fertility and infertility by an individual to avoid pregnancy, including cervical mucus methods, sympto-thermal or sympto-hormonal methods, the standard days method, and the lactational amenorrhea method.

Current Law: Under Maryland law, there are 49 mandated health insurance benefits that certain carriers must provide to their enrollees, including coverage for contraceptive drugs and devices. Carriers must provide coverage for any U.S. Food and Drug Administration (FDA)-approved prescription contraceptive drug or device, including coverage for the insertion or removal or any medically necessary examination associated with the use of a contraceptive drug or device.

Under Chapters 436 and 437 of 2016, effective January 1, 2018, carriers may not apply most copayment or coinsurance requirements for an FDA-approved prescription contraceptive drug or device or require prior authorization for certain prescription contraceptive drugs or devices. Carriers must provide coverage for off-formulary prescription contraceptives for adherence purposes, expand access to male sterilization without copayment or coinsurance requirements, and provide coverage for FDA-approved over-the-counter contraceptive drugs.

Under the federal Patient Protection and Affordable Care Act (ACA), plans sold through an exchange must cover contraceptive methods, including patient education and counseling for all women, as prescribed by a health care provider. Services must be covered without a copayment or coinsurance when provided by an in-network provider.

Background: According to the American College of Obstetrics and Gynecology (ACOG), fertility awareness-based methods can be used to prevent or achieve pregnancy. The primary advantages of fertility awareness-based methods are that no medications or devices are involved, there are no side effects, the methods are acceptable to couples with religious concerns, and the methods cost very little to use. When used to prevent pregnancy, fewer than 1 to 5 women out of 100 will become pregnant during the first year of perfect use. With typical use, 12 to 24 out of 100 women will become pregnant. ACOG suggests that fertility awareness-based methods are best learned from a qualified teacher or group. Courses in fertility awareness-based methods are available online and in person through local clinics, hospitals, and religious organizations.

State Expenditures: The State Plan is largely self-insured for its medical contracts and, as such, with the exception of the one fully insured integrated health model medical plan, is not subject to this mandate. However, the State Plan generally provides coverage for mandated health insurance benefits. The Department of Budget and Management advises

that instruction by a licensed health care provider on fertility awareness-based methods would be covered as a regular office visit; thus, the bill likely has no impact on the State Plan.

Additional Comments: MIA advises that the bill applies to all insurance markets, with the exception of grandfathered health plans. As such, the State is required to defray any additional costs of the mandate to the extent it applies to the individual and small group plans subject to the ACA.

Additional Information

Prior Introductions: SB 96 of 2017, as amended, passed the Senate and received a hearing in the House Health and Government Operations Committee, but no further action was taken.

Cross File: HB 249 (Delegate Kipke) - Health and Government Operations.

Information Source(s): American College of Obstetrics and Gynecology; Department of Budget and Management; Maryland Department of Health; Maryland Insurance Administration; Department of Legislative Services

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