

SENATE BILL 986

P4, C3

8lr3620
CF HB 1024

By: **Senator Kelley**

Introduced and read first time: February 5, 2018

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 16, 2018

CHAPTER _____

1 AN ACT concerning

2 **State Employee and Retiree Health and Welfare Benefits Program –**
3 **Contraceptive Drugs and Devices and Male Sterilization**

4 FOR the purpose of requiring the Secretary of Budget and Management to ensure that the
5 State Employee and Retiree Health and Welfare Benefits Program complies with
6 certain provisions of the Insurance Article relating to the coverage of contraceptive
7 drugs and devices and male sterilization; and generally relating to the coverage of
8 contraceptive drugs and devices and male sterilization under the State Employee
9 and Retiree Health and Welfare Benefits Program.

10 BY repealing and reenacting, without amendments,
11 Article – Insurance
12 Section ~~15–826~~, 15–826.1, 15–826.2, and 15–831(a) through (d)
13 Annotated Code of Maryland
14 (2017 Replacement Volume)

15 BY repealing and reenacting, without amendments,
16 Article – State Personnel and Pensions
17 Section 2–501(a) and (b)
18 Annotated Code of Maryland
19 (2015 Replacement Volume and 2017 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article – State Personnel and Pensions
22 Section 2–503(a)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland
2 (2015 Replacement Volume and 2017 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
4 That the Laws of Maryland read as follows:

5 **Article – Insurance**

6 15–826.

7 (a) This section applies to:

8 (1) insurers and nonprofit health service plans that provide coverage for
9 prescription drugs under health insurance policies or contracts that are issued or delivered
10 in the State; and

11 (2) health maintenance organizations that provide coverage for
12 prescription drugs under contracts that are issued or delivered in the State.

13 (b) An entity subject to this section:

14 (1) shall provide coverage for any contraceptive drug or device that is
15 approved by the United States Food and Drug Administration for use as a contraceptive
16 and that is obtained under a prescription written by an authorized prescriber as defined in
17 § 12–101 of the Health Occupations Article;

18 (2) shall provide coverage for the insertion or removal, and any medically
19 necessary examination associated with the use, of such contraceptive drug or device; and

20 (3) may not impose a different copayment or coinsurance for a
21 contraceptive drug or device than is imposed for any other prescription.

22 (c) (1) A religious organization may request and an entity subject to this
23 section shall grant the request for an exclusion from coverage under the policy, plan, or
24 contract for the coverage required under subsection (b) of this section if the required
25 coverage conflicts with the religious organization’s bona fide religious beliefs and practices.

26 (2) A religious organization that obtains an exclusion under paragraph (1)
27 of this subsection shall provide its employees reasonable and timely notice of the exclusion.

28 15–826.1.

29 (a) In this section, “authorized prescriber” has the meaning stated in § 12–101 of
30 the Health Occupations Article.

31 (b) This section applies to:

1 (1) insurers and nonprofit health service plans that provide coverage for
2 contraceptive drugs and devices under individual, group, or blanket health insurance
3 policies or contracts that are issued or delivered in the State; and

4 (2) health maintenance organizations that provide coverage for
5 contraceptive drugs and devices under individual or group contracts that are issued or
6 delivered in the State.

7 (c) (1) This subsection does not apply to a health benefit plan that is a
8 grandfathered health plan, as defined in § 1251 of the Affordable Care Act.

9 (2) An entity subject to this section:

10 (i) except for a drug or device for which the U.S. Food and Drug
11 Administration has issued a black box warning, may not apply a prior authorization
12 requirement for a contraceptive drug or device that is:

13 1. A. an intrauterine device; or

14 B. an implantable rod;

15 2. approved by the U.S. Food and Drug Administration; and

16 3. obtained under a prescription written by an authorized
17 prescriber; and

18 (ii) except as provided in paragraph (3) of this subsection, may not
19 apply a copayment or coinsurance requirement for a contraceptive drug or device that is:

20 1. approved by the U.S. Food and Drug Administration; and

21 2. obtained under a prescription written by an authorized
22 prescriber.

23 (3) An entity subject to this section may apply a copayment or coinsurance
24 requirement for a contraceptive drug or device that, according to the U.S. Food and Drug
25 Administration, is therapeutically equivalent to another contraceptive drug or device that
26 is available under the same policy or contract without a copayment or coinsurance
27 requirement.

28 (d) (1) Except as provided in paragraphs (2) and (3) of this subsection, an
29 entity subject to this section shall provide coverage for a single dispensing to an insured or
30 an enrollee of a supply of prescription contraceptives for a 6-month period.

31 (2) Subject to § 15-824 of this subtitle, an entity subject to this section may
32 provide coverage for a supply of prescription contraceptives that is for less than a 6-month
33 period, if a 6-month supply would extend beyond the plan year.

1 (3) Paragraph (1) of this subsection does not apply to the first 2-month
2 supply of prescription contraceptives dispensed to an insured or an enrollee under:

3 (i) the initial prescription for the contraceptives; or

4 (ii) any subsequent prescription for a contraceptive that is different
5 than the last contraceptive dispensed to the insured or the enrollee.

6 (4) Whenever an entity subject to this section increases the copayment for
7 a single dispensing of a supply of prescription contraceptives for a 6-month period, the
8 entity shall also increase proportionately the dispensing fee paid to the pharmacist.

9 (e) (1) Subject to paragraph (2) of this subsection, an entity subject to this
10 section:

11 (i) shall provide coverage without a prescription for all
12 contraceptive drugs approved by the U.S. Food and Drug Administration and available by
13 prescription and over the counter; and

14 (ii) may not apply a copayment or coinsurance requirement for a
15 contraceptive drug dispensed without a prescription under item (i) of this paragraph that
16 exceeds the copayment or coinsurance requirement for the contraceptive drug dispensed
17 under a prescription.

18 (2) An entity subject to this section:

19 (i) may only be required to provide point-of-sale coverage under
20 paragraph (1)(i) of this subsection at in-network pharmacies; and

21 (ii) may limit the frequency with which the coverage required under
22 paragraph (1)(i) of this subsection is provided.

23 15-826.2.

24 (a) (1) In this subsection, "group" means a group that is not a group covered
25 under a health insurance policy or contract or under a health maintenance organization
26 contract issued or delivered to a small employer, as defined in § 31-101 of this article.

27 (2) This subsection applies to:

28 (i) insurers and nonprofit health service plans that provide hospital,
29 medical, or surgical benefits to groups on an expense-incurred basis under health
30 insurance policies or contracts that are issued or delivered in the State; and

1 (ii) health maintenance organizations that provide hospital,
2 medical, or surgical benefits to groups under contracts that are issued or delivered in the
3 State.

4 (3) This subsection does not apply to an organization that requests and
5 receives an exclusion from coverage under § 15–826(c) of this subtitle.

6 (4) An entity subject to this subsection shall provide coverage for male
7 sterilization.

8 (b) (1) This subsection applies to:

9 (i) insurers and nonprofit health service plans that provide coverage
10 for male sterilization under individual, group, or blanket health insurance policies or
11 contracts that are issued or delivered in the State; and

12 (ii) health maintenance organizations that provide coverage for male
13 sterilization under individual or group contracts that are issued or delivered in the State.

14 (2) Except with respect to a health benefit plan that is a grandfathered
15 health plan, as defined in § 1251 of the Affordable Care Act, an entity subject to this
16 subsection may not apply a copayment, coinsurance requirement, or deductible to coverage
17 for male sterilization.

18 15–831.

19 (a) (1) In this section the following words have the meanings indicated.

20 (2) “Authorized prescriber” has the meaning stated in § 12–101 of the
21 Health Occupations Article.

22 (3) “Formulary” means a list of prescription drugs or devices that are
23 covered by an entity subject to this section.

24 (4) (i) “Member” means an individual entitled to health care benefits
25 for prescription drugs or devices under a policy issued or delivered in the State by an entity
26 subject to this section.

27 (ii) “Member” includes a subscriber.

28 (b) (1) This section applies to:

29 (i) insurers and nonprofit health service plans that provide coverage
30 for prescription drugs and devices under individual, group, or blanket health insurance
31 policies or contracts that are issued or delivered in the State; and

1 (ii) health maintenance organizations that provide coverage for
2 prescription drugs and devices under individual or group contracts that are issued or
3 delivered in the State.

4 (2) An insurer, nonprofit health service plan, or health maintenance
5 organization that provides coverage for prescription drugs and devices through a pharmacy
6 benefit manager is subject to the requirements of this section.

7 (3) This section does not apply to a managed care organization as defined
8 in § 15–101 of the Health – General Article.

9 (c) Each entity subject to this section that limits its coverage of prescription drugs
10 or devices to those in a formulary shall establish and implement a procedure by which a
11 member may receive a prescription drug or device that is not in the entity’s formulary in
12 accordance with this section.

13 (d) The procedure shall provide for coverage for a prescription drug or device that
14 is not in the formulary if, in the judgment of the authorized prescriber:

15 (1) there is no equivalent prescription drug or device in the entity’s
16 formulary;

17 (2) an equivalent prescription drug or device in the entity’s formulary:

18 (i) has been ineffective in treating the disease or condition of the
19 member; or

20 (ii) has caused or is likely to cause an adverse reaction or other harm
21 to the member; or

22 (3) for a contraceptive prescription drug or device, the prescription drug or
23 device that is not on the formulary is medically necessary for the member to adhere to the
24 appropriate use of the prescription drug or device.

25 Article – State Personnel and Pensions

26 2–501.

27 (a) In this subtitle the following terms have the meanings indicated.

28 (b) “Program” means the State Employee and Retiree Health and Welfare
29 Benefits Program.

30 2–503.

31 (a) The Secretary shall:

- 1 (1) adopt regulations for the administration of the Program;
- 2 (2) ensure that the Program complies with:
 - 3 (I) all federal and State laws governing employee benefit plans; AND
 - 4 (II) §§ 15-826, 15-826.1, 15-826.2, AND, AS APPLICABLE TO
 - 5 CONTRACEPTIVE DRUGS AND DEVICES, 15-831(A) THROUGH (D) OF THE INSURANCE
 - 6 ARTICLE; and
- 7 (3) each year, recommend to the Governor the State share of the costs of
- 8 the Program.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2018.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.