

HOUSE BILL REPORT

SHB 1234

As Passed Legislature

Title: An act relating to private health plan coverage of contraceptives.

Brief Description: Addressing private health plan coverage of contraceptives.

Sponsors: House Committee on Health Care & Wellness (originally sponsored by Representatives Robinson, Lytton, Senn, Frame, Doglio, Tarleton, Hansen, Jinkins, Cody, Ortiz-Self, Riccelli, Stambaugh, Macri, Pollet, Tharinger, Clibborn, Stonier, Caldier, Sells, Gregerson, Wylie, Kilduff, McBride, Goodman, Bergquist, Ormsby, Stanford, Slatter and Kloba).

Brief History:

Committee Activity:

Health Care & Wellness: 2/1/17, 2/8/17 [DPS].

Floor Activity:

Passed House: 3/1/17, 93-5.

Passed Senate: 4/12/17, 48-1.

Passed Legislature.

Brief Summary of Substitute Bill

- Requires health plans that cover contraceptive drugs to reimburse a 12-month refill of contraceptive drugs obtained at one time.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 16 members: Representatives Cody, Chair; Macri, Vice Chair; Graves, Assistant Ranking Minority Member; Caldier, Clibborn, DeBolt, Harris, Jinkins, MacEwen, Maycumber, Riccelli, Robinson, Rodne, Slatter, Stonier and Tharinger.

Minority Report: Do not pass. Signed by 1 member: Representative Schmick, Ranking Minority Member.

Staff: Alexa Silver (786-7190).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

Federal Law on Contraceptive Coverage.

Under the Affordable Care Act (ACA), all health plans must cover preventive services without cost-sharing. By rule, preventive services include all Food and Drug Administration (FDA)-approved contraceptive methods. Drugs that induce abortions and vasectomies are not included in this coverage mandate.

Pursuant to federal rules, a health plan purchased or offered by a religious employer is not required to cover contraceptives. A health plan purchased or offered by a nonprofit religious organization, such as a religiously affiliated hospital, is not required to cover contraceptives if the organization certifies that it has religious objections (in which case the carrier covers the cost).

In *Burwell v. Hobby Lobby*, the United States Supreme Court ruled that requiring a closely held corporation to cover contraceptives without cost-sharing violates the Religious Freedom Restoration Act (RFRA) when such coverage violates the corporation's religious beliefs. The RFRA does not apply to state laws, so the ruling does not apply to state coverage mandates.

State Law on Contraceptive Coverage.

The ACA requires non-grandfathered individual and small group market health plans to offer the "essential health benefits" both inside and outside of the Health Benefit Exchange. States establish the essential health benefits using a supplemented benchmark plan. Prescription drugs, including all FDA-approved contraceptive methods and prescription-based sterilization procedures for women, are included in Washington's essential health benefits package. A health carrier may apply cost-sharing requirements to this contraceptive coverage.

By rule, state-regulated health plans that provide generally comprehensive coverage of prescription drugs may not exclude prescription contraceptives or cover them on a less favorable basis than other covered prescription drugs. This requirement applies regardless of whether the plan is subject to the essential health benefits requirement. A health carrier may require cost-sharing for prescription contraceptives to the same extent that such cost-sharing is required for other covered prescription drugs. "Prescription contraceptives" include all FDA-approved contraceptive drugs, devices, and prescription barrier methods.

Summary of Substitute Bill:

A health plan issued or renewed on or after January 1, 2018, that includes coverage for contraceptive drugs must reimburse for a 12-month refill of contraceptive drugs obtained at one time by the enrollee, unless the enrollee requests a smaller supply or the prescribing provider instructs that the enrollee must receive a smaller supply.

The plan must allow enrollees to receive the drugs on-site at the provider's office, if available. Any dispensing practices required by the plan must follow clinical guidelines for appropriate prescribing and dispensing to ensure the health of the patient while maximizing access to effective contraceptive drugs. The plan may limit refills that may be obtained in the

last quarter of the plan year if a 12-month supply of the contraceptive drug has already been dispensed during the plan year.

"Contraceptive drugs" are defined to mean all drugs approved by the Food and Drug Administration that are used to prevent pregnancy, including hormonal drugs administered orally, transdermally, and intravaginally.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This is a common sense bill that allows women to get 12 months of contraceptives at a time, which is more convenient than having to go to a pharmacy every month. Women juggle busy schedules, full-time jobs, and other responsibilities. Disadvantaged women, college students, women with unpredictable work schedules, and frequent travelers are especially vulnerable to disruption in access. Sometimes the prescription may be out of stock, and a woman may have to decide between delaying the next month's start date or substituting a different drug with side effects.

Consistent access to birth control helps ensure that women do not miss doses, which can result in unintended pregnancies. Half of all pregnancies are unintended, which creates a greater risk for preterm birth and low birth weight. Practical, long-term access to contraception is essential to building healthy families and communities. The cost of contraception is much lower than pregnancy and delivery. Providers will also see lower costs and will save money. An examination once a year is fine, as long as there are no issues.

This bill is a small change to the process, but is important to hundreds of thousands of women across the state. We should trust women to do what's right for their lives and their bodies. A similar bill last year had strong bipartisan support.

(Opposed) None.

Persons Testifying: Representative Robinson, prime sponsor; Laura Owens, University of Washington Department of Gynecology and Obstetrics; Jessie Turner, National Organization for Women; Christina Pedersen; Jo Rodman, League of Women Voters; Linda Micheel; Julie Corwin; Portia Tolentino; Natalie Hoffman; and Nora Kovacs.

Persons Signed In To Testify But Not Testifying: None.