

Health Care & Wellness Committee

HB 1234

**Brief Description:** Addressing private health plan coverage of contraceptives.

**Sponsors:** 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.

<p><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"> <li>• Requires health plans that cover contraceptive drugs to reimburse a 12-month refill of contraceptive drugs obtained at one time.</li> </ul>
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**Hearing Date:** 2/1/17

**Staff:** Alexa Silver (786-7190).

**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).

*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.*

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 to 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 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.

"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:** Requested on January 26, 2017.

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