



STATE OF MAINE
DEPARTMENT OF PROFESSIONAL & FINANCIAL REGULATION
BUREAU OF INSURANCE



Janet T. Mills
Governor

Anne L. Head
DPFR Commissioner

Timothy N. Schott
Acting Superintendent

February 20, 2023

Senator Donna Bailey, Senate Chair
Representative Anne Perry, House Chair
Joint Standing Committee on Health Coverage, Insurance and Financial Services
100 State House Station
Augusta, ME 04333-0100

Re: L.D. 2203, "An Act to Require Health Insurance Coverage for Federally Approved
Nonprescription Contraceptives," 131st Second Regular Session

Dear Senator Bailey, Representative Perry, and Members of the Committee:

The Bureau takes no position on L.D. 2203 as amended by the proposed Sponsor's Amendment. The purpose of this letter is to provide you with background information. This bill amends Titles 24 and 24-A to require coverage for all contraceptives approved by the FDA, or for outpatient contraceptive services. The bill requires the coverage for supplies to be offered without any deductible, coinsurance, copayment or other cost-sharing, and prohibits requiring a prescription for an over-the-counter contraceptive supply. Entities subject to this bill (nonprofit hospitals, medical service organizations, nonprofit health care plans, insurers, and health maintenance organizations) must establish a mechanism to ensure that enrollees who purchase nonprescription contraceptives have the option to either:

- a.) make the purchase at a pharmacy with zero cost-sharing at the point of sale; or
- b.) make the purchase at another retail establishment with a payment at the point of sale and submit a claim for reimbursement.

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Representative Anne Perry, House Chair
February 16, 2024
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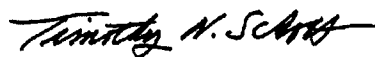
Currently, federal law already requires coverage for over-the-counter (OTC) contraceptives with a prescription. This is an evolving area of law and the federal government has recently issued a Request for Information on this topic.¹

In regard to whether the amended bill constitutes a mandated health benefit, the Federal Centers for Medicare and Medicaid Services (CMS) recently released guidance regarding coverage of contraceptives pursuant to the Health Resources and Services Administration (HRSA)-supported guidelines: <https://www.cms.gov/files/document/faqs-part-64.pdf>. With respect to women, it requires health issuers offering group or individual plans to cover, without imposing cost-sharing, additional preventive care and screenings not described in PHS Act section 2713(a)(1) as provided for in comprehensive guidelines supported by HRSA. The HRSA rules can be found at <https://www.hrsa.gov/womens-guidelines>. The contraception portion of those rules, promulgated under the Women's Preventative Services Guidelines, is attached hereto as Attachment A.

In light of the foregoing, I would not consider this bill to be a new mandated health benefit requiring a mandate study from the Bureau of Insurance, but rather an expansion of existing preventative benefits.

I hope this information is useful to the Committee. Please let me know if I can provide any further assistance.

Sincerely,



Timothy N. Schott
Acting Superintendent
Cc:

¹ <https://www.federalregister.gov/documents/2023/10/04/2023-21969/request-for-information-coverage-of-over-the-counter-preventive-services>