



## Testimony Neither For Nor Against

### LD 163, An Act to Require Health Insurance Coverage for Federally Approved Nonprescription Oral Hormonal Contraceptives and Nonprescription Emergency Contraceptives

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Senator Bailey, Representative Mathieson and distinguished members of the Health Coverage, Insurance and Financial Services Committee, my name is Kim Cook and I am an attorney with Government Strategies and I'm here on behalf of Community Health Options, Maine's nonprofit CO-OP health insurance company. Community Health Options exists for the benefit of its Members and its mission which is to provide affordable, high-quality benefits that promote health and wellbeing. We offer our testimony to provide our perspective on provisions of LD 163 and suggest amendments to the bill.

**Community Health Options supports the mandated first-dollar coverage proposed in LD 163, but urges the Committee to amend the bill such that this mandate applies as follows:**

- 1) to both public (MaineCare) and private health plans that the Legislature has jurisdiction over, and
- 2) only at the pharmacy counter with direct billing to health plans.

### **Mandated Benefits Should Be Applied to State-regulated Public and Private Health Coverage Evenly**

As drafted, LD 163 would only apply to commercial health insurance and reach only about 20% of Maine people.<sup>1</sup> We agree with Representative Arford's testimony introducing this same policy in LD 2203 in the 131<sup>st</sup> Legislature in which she stated:

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<sup>1</sup> According to the Bureau of Insurance presentation entitled "Health Insurance Overview and the Role of the Maine Bureau of Insurance" (BOI presentation), delivered on January 21, 2025 to the Health Coverage Insurance and Financial Services Committee, only 288,672 Maine people have commercial health insurance that is regulated by the state. The population of Maine in 2024 was 1,405,012 according to the U.S. Census Bureau.



“Affirming the right to the full range of affordable, accessible contraception is critical to the well-being of Maine people. Considering the number of unintended pregnancies, we can understand how this might be a critical need for many people. In fact, the research tells us that unintended pregnancies have a disproportionately negative impact on low-income women, women of color, immigrant women, young women, and women who are already disadvantaged in their access to economic resources.”

Mandating first dollar coverage only for those with access to private insurance, however, falls short of this goal. Given that in Maine, as many people have coverage through MaineCare<sup>2</sup> as through the state-regulated insurance market, expanding this mandate to MaineCare would double the population with access to OTC contraceptive products without financial barriers. **We urge the Committee that when it determines that certain coverage is worthy of a mandate in the private insurance market, that it applies the mandate to the MaineCare program.** This broader application is not just about fairness, but also about seamlessness of coverage and ensuring continuity across different forms of coverage to maintain access and appropriate treatment.

### **Limit Administrative Burdens through Direct Billing to Health Plans**

LD 163 would require first dollar coverage regardless of the location of the purchase (i.e., at the Point of Sale at the pharmacy counter or through reimbursement to an enrollee). **Mandating coverage for OTC medicines and products is new in Maine (outside of COVID tests during the state of emergency) and poses administrative complexities and the potential for fraud, waste and abuse.** We learned from processing individual member claims for reimbursement, just how much more labor intensive it is to process these claims and reimbursements. Increases to our claims handling costs inhibit our ability to provide the greatest value to our members. We urge the Committee to minimize the administrative costs that would be necessitated by requiring reimbursement to members when they submit any manner of receipts for after-the-fact reimbursement.

**Other states have chosen to require coverage only at in-network pharmacies or at the pharmacy counter.** We have provided excerpts of that statutory language illustrating these approaches in Attachment A. We also note that New Mexico, New York and Washington do not appear to address how coverage is operationalized in statute, i.e., whether coverage is required only at the pharmacy counter or also via after-the-fact submission of a claim by the enrollee.

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<sup>2</sup> According to this BOI presentation, 290,300 people are enrolled in the State’s Medicaid program.



**If the committee chooses to move forward with this bill, we strongly urge the Committee to:**

- 1. Require MaineCare to provide the same coverage benefit that is required in the commercial insurance market; and**
- 2. Adopt language similar to Maryland or New Jersey (see Attachment A) specifying that OTC contraceptives be covered at the pharmacy counter with direct billing to the carrier.**

Thank you for your consideration of our testimony. We will be available at your work session if you have any questions.



## Attachment A

**Maryland:** Md. Code Ann., ins. § 15-826.1(e)

(e) ...

(2) An entity subject to this section:

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

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

(emphasis added)

**New Jersey:** NJ. Stat. Ann. § 17B:27A-7.12

7. a. An individual health benefits plan required pursuant to section 3 of P.L.1992, c.161 (C.17B:27A-4) shall provide coverage for expenses incurred in the purchase of prescription female contraceptives, and the following services, drugs, devices, products, and procedures *on an in-network basis*: (emphasis added)

(1) Any contraceptive drug, device or product approved by the United States Food and Drug Administration, which coverage shall be subject to all of the following conditions:

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