



Janet T. Mills
Governor

STATE OF MAINE
DEPARTMENT OF PROFESSIONAL
AND FINANCIAL REGULATION
BUREAU OF INSURANCE
34 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0034

Eric A. Cioppa
Superintendent

February 15, 2022

Senator Heather Sanborn, Chair
Representative Denise Tepler, Chair
Joint Standing Committee on Health Coverage, Insurance and Financial Services
100 State House Station
Augusta, ME 04333-0100

Re: L.D. 1954: An Act To Ensure Access to Prescription Contraceptives

Dear Senator Sanborn, Representative Tepler, and Members of the Committee:

The Bureau of Insurance takes no position on LD 1954. The purpose of this letter is to provide you with background information. This bill would expand the current Maine requirement for carriers offering health plans to cover all contraceptive drugs, devices and products approved by the federal Food and Drug Administration without any deductible, coinsurance, co-payment or other cost-sharing requirement. However, insurers would not have to cover every single drug or product available but would only be required to cover one therapeutically equivalent version of each type. Coverage must be provided for a 12-month supply.

Please note that under the Affordable Care Act, insurance carriers are already required to cover all prescription birth control options for women without cost-sharing.

The bill does not address the conflict between state and federal law for HSA-compatible plans. The Internal Revenue Service has issued guidance prohibiting plans from qualifying as HSA-compatible high-deductible health plans if they provide coverage outside the deductible for male contraceptives or any other contraceptives that are not approved by CMS as preventive services under the ACA.

Beginning in 2014, states were required to defray the costs of all mandates that are included in Qualified Health Plans, unless those mandates are required as part of the essential benefit package. The Affordable Care Act (ACA) directs states to make payments either to the individual enrollee or to the insurer.¹ Generally, any mandate adopted by a state after December 31, 2011 is not part of the essential benefit package and thus is subject to the requirement for the state to defray the cost. However, if this bill is determined by federal regulators to be the expansion of an existing mandate rather than a new mandate, it is our understanding that the state would not have to defray the cost.

Title 24-A M.R.S. § 2752 provides for a review and evaluation of a mandated benefit proposal by the Bureau of Insurance before the bill may be enacted. These reviews include an evaluation of the financial impact, social impact and medical efficacy of the mandate. If a report is required it could cost the Bureau up to \$13,500 for outside contract consulting work plus staff time, estimated at a cost of \$1,600 to collect information, review consultant work, and prepare the final report. We anticipate that

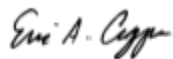
¹ See 45 CFR § 155.170, implementing ACA § 1311(d)(3)(B).

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current resources will allow us to conduct up to two studies during the current session, and we will need eight weeks for each report to ensure a high-quality evaluation.

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

Sincerely,



Eric A. Cioppa
Superintendent

cc: Senator Troy Jackson, Sponsor