



February 26, 2024

Senator Donna Bailey, Co-Chair
Representative Anne Perry, Co-Chair
Committee on Health Coverage, Insurance and Financial Services
c/o Legislative Information Office
100 State House Station
Augusta, ME 04333

Dear Senator Bailey, Representative Perry, and Members of the Joint Standing Committee on Health Coverage, Insurance and Financial Services,

While the Healthcare Purchaser Alliance of Maine supports access to contraceptives, I am writing to share some specific concerns that our organization has with **LD 2203, An Act to Require Health Insurance Coverage for Federally Approved Nonprescription Oral Hormonal Contraceptives**, which would mandate coverage of over-the-counter (OTC) contraceptive products such as condoms, contraceptive sponges, and spermicides, and waive member cost sharing for at least one item in each of those product categories.

The HPA is a nonprofit that represents the purchasers of healthcare in Maine. Our mission is to advance healthcare value and to support and incentivize high-quality, affordable care. We have over 60 members, including some of the largest public and private employers and health trusts in Maine. Collectively, our members spend over a billion dollars annually providing health care for nearly one quarter of the commercially insured population in the state.

We appreciate the Legislature's efforts to make medications and other products more affordable for consumers, but we need to balance the impact that coverage expansions have on the subset of the population they affect against the increased premiums, deductibles, and cost sharing that results for everyone else in the plan. Policies which improve coverage or lower costs for some plan members shift those costs onto everyone else, many of whom are already struggling to afford their own health care. Average family premiums in Maine increased by over 30 percent between 2017 and 2022.¹ And today, Mainers have the highest average individual deductible in the entire country, averaging \$2,771 in 2022.² When plan sponsors consider policies to improve affordability for some plan members, we have to keep in mind how much that further diminishes affordability for everyone else.

¹ Kaiser Family Foundation, Average Annual Family Premium per Enrolled Employee For Employer-Based Health Insurance, 2017-2021. Available at: <https://www.kff.org/other/state-indicator/family-coverage/?currentTimeframe=0&sortModel=%7B%22colld%22:%22Location%22,%22sort%22:%22asc%22%7D>.

² Kaiser Family Foundation, Average Annual Deductible per Enrolled Employee in Employer-Based Health Insurance for Single and Family Coverage, 2021. Available at: <https://www.kff.org/other/state-indicator/average-annual-deductible-per-enrolled-employee-in-employer-based-health-insurance-for-single-and-family-coverage/?currentTimeframe=0&sortModel=%7B%22colld%22:%22Average%20Single%20Deductible%22,%22sort%22:%22desc%22%7D>.



There are many over-the-counter medications and products that effectively prevent and manage health conditions—including vitamins, allergy medications, probiotics, and pain relief medications—which currently are not covered by health insurance. Mandating insurance coverage of OTC contraceptives or other OTC items might lower an individual consumers' cost at the pharmacy counter, but those waived costs would still need to be paid, becoming the responsibility of everyone else on the plan who is already struggling to afford healthcare premiums and cost sharing.

In addition, if the committee is interested in pursuing this LD, I urge you to send it to the Bureau of Insurance for a mandate study, so that you can get a better understanding of the costs and benefits of covering a range of contraceptive products that are currently widely utilized, but not covered by commercial plans—particularly the impact on commercial premiums, that will have to be absorbed by Maine employers, employees, and their families.

The committee could also glean valuable information from a pending Request for Information (RFI) from the U.S. Departments of Health and Human Services, Labor, and Treasury regarding their consideration of coverage of OTC preventive services, including contraceptives. Noting that most plans currently do not cover OTC preventive products without a prescription, the RFI was issued “to solicit information that will improve the Departments’ understanding of the issues related to consumer access to OTC preventive products without cost sharing and without a prescription.” The RFI sought input on: the potential benefits and costs of offering coverage for OTC preventive items without cost sharing or prescription; potential implementation and administrative challenges associated with providing such coverage; what guardrails would plans consider to mitigate waste, fraud, and abuse; whether and how such coverage would benefit consumers; and any potential burden that plans and issuers would face if required to provide such coverage.³ The comment period on the RFI closed on December 4.

Before implementing no-cost coverage of OTC contraceptives in Maine, we would urge the committee to await the results of the federal RFI process, which could result in some federal coverage mandates in this area. Feedback solicited from the RFI could also provide helpful information that could inform consideration of any coverage expansions here in Maine—particularly in terms of identifying and managing issues around operationalizing this sort of expansion.

Thank you for the opportunity to share our feedback, and for your consideration. Please let me know if you have any questions or if I can be of further assistance. I can be reached at tputnoky@purchaseralliance.org or 844-8106.

Sincerely,

Trevor Putnoky
President and CEO

³ “Request for Information; Coverage of Over-the-Counter Preventive Services,” 88 FR 68519, *Federal Register*, October 4, 2023. Available at: <https://www.federalregister.gov/documents/2023/10/04/2023-21969/request-for-information-coverage-of-over-the-counter-preventive-services>.