

Amendment - 1st Reading/2nd House-blue - Requested by: Alice Buckley - (S) Business, Labor, and Economic Affairs

- 2023

68th Legislature 2023

Drafter: Sue O'Connell, 406-444-3597

HB0302.003.001

1 HOUSE BILL NO. 302
2 INTRODUCED BY A. BUCKLEY, M. CAFERRO, C. KNUDSEN, R. KNUDSEN, E. KERR-CARPENTER, K.
3 BOGNER, J. KASSMIER, K. ZOLNIKOV, C. SPRUNGER
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING INSURANCE COVERAGE OF A 12-MONTH SUPPLY
6 OF PRESCRIPTION CONTRACEPTIVES; AMENDING SECTIONS 33-22-101, 33-31-111, AND 33-35-306,
7 MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10
11 NEW SECTION. Section 1. Coverage of contraceptives. (1) Each group or individual disability
12 policy, certificate of insurance, or membership contract that is delivered, issued for delivery, renewed,
13 extended, or modified in this state that includes coverage for prescription contraceptives must provide
14 reimbursement for up to a 12-month supply of any covered drug, device, or product for contraception that is
15 prescribed and that has been approved by the U.S. food and drug administration.

16 ~~(2) — The coverage under this section must allow for an insured to receive up to a 12-month supply~~
17 ~~of a prescription contraceptive regardless of whether the insured was enrolled in the policy, certificate, or~~
18 ~~contract at the time the contraceptive was first prescribed or dispensed.~~

19 ~~(3)(2)~~ THE COVERAGE UNDER THIS SECTION MUST ALLOW THE INSURED TO RENEW AND REFILL A 12-MONTH
20 PRESCRIPTION A MINIMUM OF 60 DAYS BEFORE THE PRESCRIPTION EXPIRES.

21 ~~(3)~~(4)(3) The coverage under this section must allow the insured to receive the 12-month supply
22 at one time unless the insured requests less than a 12-month supply or a health care provider specifically
23 prescribes less than a 12-month supply.

24 ~~(4)~~(5)(4) If the insured's prescriber recommends a specific contraceptive drug, device, or
25 product approved by the U.S. food and drug administration based on medical necessity, the insurer shall defer
26 to the prescriber's determination and provide coverage for the prescribed contraceptive if the prescribed
27 contraceptive drug, device, or product is covered by the insurer.

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1 ~~(5)~~~~(6)~~(5) Coverage required under this section may not:

2 (a) in the absence of clinical contraindications, impose utilization controls or other forms of medical
3 management to limit the supply of ~~contraceptives covered contraceptive drugs, devices, or products~~ that will be
4 reimbursed to less than a 12-month supply;

5 (b) require prior authorization for coverage of prescription contraceptives, EXCEPT TO REVIEW THE
6 MEDICAL NECESSITY OF PRESCRIBING A 12-MONTH SUPPLY OF A BRAND-NAME CONTRACEPTIVE INSTEAD OF A 12-MONTH
7 SUPPLY OF A GENERIC-NAME CONTRACEPTIVE;

8 (c) impose a waiting period for the coverage required under this section; or

9 (d) impose a special deductible, coinsurance, copayment, or other limitation on prescription
10 contraceptives covered under this section that are not generally applicable to other medical care covered under
11 the plan.

12

13 **Section 2.** Section 33-22-101, MCA, is amended to read:

14 **"33-22-101. Exceptions to scope.** (1) Subject to subsection (2), parts 1 through 4 of this chapter,
15 except 33-22-107, 33-22-110, 33-22-111, 33-22-114, 33-22-125, 33-22-129, 33-22-130 through 33-22-136, 33-
16 22-138, 33-22-140, 33-22-141, 33-22-142, 33-22-153, 33-22-243, and 33-22-304, and part 19 of this chapter do
17 not apply to or affect:

18 (a) any policy of liability or workers' compensation insurance with or without supplementary
19 expense coverage;

20 (b) any group or blanket policy;

21 (c) life insurance, endowment, or annuity contracts or supplemental contracts that contain only
22 those provisions relating to disability insurance that:

23 (i) provide additional benefits in case of death or dismemberment or loss of sight by accident or
24 accidental means; or

25 (ii) operate to safeguard contracts against lapse or to give a special surrender value or special
26 benefit or an annuity if the insured or annuitant becomes totally and permanently disabled as defined by the
27 contract or supplemental contract;

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1 (d) reinsurance.

2 (2) (a) Sections 33-22-137, 33-22-150 through 33-22-152, section 1, 33-22-170 through 33-22-
3 177, 33-22-180, and 33-22-301 apply to group or blanket policies.

4 (b) Title 33, chapter 2, part 24, and 33-22-170 through 33-22-177 apply to workers' compensation
5 policies."
6

7 **Section 3.** Section 33-31-111, MCA, is amended to read:

8 **"33-31-111. Statutory construction and relationship to other laws.** (1) Except as otherwise
9 provided in this chapter, the insurance or health service corporation laws do not apply to a health maintenance
10 organization authorized to transact business under this chapter. This provision does not apply to an insurer or
11 health service corporation licensed and regulated pursuant to the insurance or health service corporation laws
12 of this state except with respect to its health maintenance organization activities authorized and regulated
13 pursuant to this chapter.

14 (2) Solicitation of enrollees by a health maintenance organization granted a certificate of authority
15 or its representatives is not a violation of any law relating to solicitation or advertising by health professionals.

16 (3) A health maintenance organization authorized under this chapter is not practicing medicine and
17 is exempt from Title 37, chapter 3, relating to the practice of medicine.

18 (4) This chapter does not exempt a health maintenance organization from the applicable certificate
19 of need requirements under Title 50, chapter 5, parts 1 and 3.

20 (5) This section does not exempt a health maintenance organization from the prohibition of
21 pecuniary interest under 33-3-308 or the material transaction disclosure requirements under 33-3-701 through
22 33-3-704. A health maintenance organization must be considered an insurer for the purposes of 33-3-308 and
23 33-3-701 through 33-3-704.

24 (6) This section does not exempt a health maintenance organization from:

25 (a) prohibitions against interference with certain communications as provided under Title 33,
26 chapter 1, part 8;

27 (b) the provisions of Title 33, chapter 22, parts 7 and 19;

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- 1 (c) the requirements of 33-22-134 and 33-22-135;
- 2 (d) network adequacy and quality assurance requirements provided under chapter 36; or
- 3 (e) the requirements of Title 33, chapter 18, part 9.
- 4 (7) Other chapters and provisions of this title apply to health maintenance organizations as follows:
- 5 Title 33, chapter 1, parts 6, 12, and 13; 33-2-1114; 33-2-1211 and 33-2-1212; Title 33, chapter 2, parts 13, 19,
- 6 23, and 24; 33-3-401; 33-3-422; 33-3-431; Title 33, chapter 3, part 6; Title 33, chapter 10; Title 33, chapter 12;
- 7 33-15-308; Title 33, chapter 17; Title 33, chapter 19; 33-22-107; 33-22-128; 33-22-129; 33-22-131; 33-22-136
- 8 through 33-22-139; 33-22-141 and 33-22-142; 33-22-152 and 33-22-153; [section 1]; 33-22-156 through 33-22-
- 9 159; 33-22-180; 33-22-244; 33-22-246 and 33-22-247; 33-22-514 and 33-22-515; 33-22-521; 33-22-523 and
- 10 33-22-524; 33-22-526; and Title 33, chapter 32."

11

12 **Section 4.** Section 33-35-306, MCA, is amended to read:

13 **"33-35-306. Application of insurance code to arrangements.** (1) In addition to this chapter, self-

14 funded multiple employer welfare arrangements are subject to the following provisions:

- 15 (a) 33-1-111;
- 16 (b) Title 33, chapter 1, part 4, but the examination of a self-funded multiple employer welfare
- 17 arrangement is limited to those matters to which the arrangement is subject to regulation under this chapter;
- 18 (c) Title 33, chapter 1, part 7;
- 19 (d) Title 33, chapter 2, parts 23 and 24;
- 20 (e) 33-3-308;
- 21 (f) Title 33, chapter 7;
- 22 (g) Title 33, chapter 18, except 33-18-242;
- 23 (h) Title 33, chapter 19;
- 24 (i) 33-22-107, 33-22-128, 33-22-131, 33-22-134, 33-22-135, 33-22-138, 33-22-139, 33-22-141,
- 25 33-22-142, 33-22-152, and 33-22-153, and [section 1];
- 26 (j) 33-22-512, 33-22-515, 33-22-525, and 33-22-526;
- 27 (k) Title 33, chapter 22, part 7; and

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1 (l) 33-22-707.

2 (2) Except as provided in this chapter, other provisions of Title 33 do not apply to a self-funded
3 multiple employer welfare arrangement that has been issued a certificate of authority that has not been
4 revoked."

5
6 NEW SECTION. Section 5. Codification instruction. [Section 1] is intended to be codified as an
7 integral part of Title 33, chapter 22, part 1, and the provisions of Title 33, chapter 22, part 1, apply to [section 1].

8
9 NEW SECTION. Section 6. Effective date. [This act] is effective January 1, 2024.

10
11 NEW SECTION. SECTION 7. APPLICABILITY. [THIS ACT] APPLIES TO HEALTH CARE POLICIES AND PLANS
12 ISSUED OR RENEWED ON OR AFTER [THE EFFECTIVE DATE OF THIS ACT].

13 - END -