

HOUSE BILL NO. 544

INTRODUCED BY J. GILLETTE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING REQUIREMENTS FOR COVERAGE OF PHYSICIAN SERVICES FOR ABORTION UNDER THE MEDICAID AND CHILDREN'S HEALTH INSURANCE PROGRAMS; PROVIDING FOR PRIOR AUTHORIZATION; PROVIDING THAT ONLY ABORTION SERVICES PROVIDED BY A PHYSICIAN ARE COVERED SERVICES; AMENDING SECTION 53-4-1005, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**NEW SECTION. Section 1. Abortion coverage.** (1) Coverage under the Montana medicaid program for physician services for abortion is allowed only if the abortion is performed by a physician and only if:

- (a) the life of the mother will be endangered if the fetus is carried to term;
- (b) the pregnancy is the result of an act of rape or incest; or
- (c) the abortion is medically necessary.

(2) To receive medicaid reimbursement for physician services for an abortion described in subsection (1)(a), a physician shall certify that the woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy, that would place the woman in danger of death unless an abortion is performed.

(3) To receive medicaid reimbursement for physician services for an abortion described in subsection (1)(c), a physician shall certify that, although the woman is not in danger of death unless an abortion is performed, the woman suffers from:

- (a) a physical condition that would be significantly aggravated by the pregnancy; or
- (b) a severe mental illness or intellectual disability that would be significantly aggravated by the pregnancy.

- (4) Prior authorization is required for physician services for abortion. If prior authorization is not

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1 obtained because of an emergency, a claim for payment must undergo post-service, prepayment review. Prior  
2 authorization is not required for treatments for incomplete abortion, miscarriage, or septic abortion.

3 (5) The following supporting documentation must be submitted for an abortion described in  
4 subsection (1)(a) or (1)(c), either with the prior authorization request or with any claim for payment for which  
5 prior authorization was not received:

6 (a) the woman's medical history, including:

7 (i) age, current medications, medical conditions, and allergies;

8 (ii) number of pregnancies and number of live births;

9 (iii) last menstrual period and the status and results of any pregnancy test;

10 (iv) chronic illnesses and surgeries;

11 (v) behavioral health issues;

12 (vi) smoking and substance abuse; and

13 (vii) obstetric history;

14 (b) a brief review of systems to identify symptoms the woman may be experiencing;

15 (c) the results of a physical examination, including vital signs, heart, lungs, abdomen, extremities,  
16 and, if imaging is not available, estimate of gestational age;

17 (d) if available, results of laboratory tests, including rh factor, hemoglobin, and human chorionic  
18 gonadotropin;

19 (e) if available, imaging to estimate gestational age;

20 (f) documentation that:

21 (i) the diagnosis of the condition leading to a determination that an abortion is necessary was  
22 made by a medical professional qualified by education, training, and experience to make the diagnosis; and

23 (ii) the woman is receiving care for the condition;

24 (g) the reason for the abortion procedure;

25 (h) for medication or chemical abortions, documentation confirming review of contraindications,  
26 adequate patient education, and compliance with the requirements of the medicaid physician-related services  
27 manual;

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(i) the treatment plan; and

(j) the woman's signed informed consent for the proposed abortion procedure.

(6) A police report must be submitted as supporting documentation for an abortion described in subsection (1)(b), either with the prior authorization request or with any claim for payment for which prior authorization was not received. As a condition of reimbursement, the physician shall collect and provide a DNA sample from the unborn child to law enforcement to prosecute the rape or incest.

~~(6)(7)~~ As used in this section, the following terms apply:

(a) "Abortion" has the meaning provided in 50-20-104.

(b) "Physician" has the meaning provided in 37-3-102.

**Section 2.** Section 53-4-1005, MCA, is amended to read:

**"53-4-1005. (Temporary) Benefits provided.** (1) Benefits provided to participants in the program may include but are not limited to:

(a) inpatient and outpatient hospital services;

(b) physician and advanced practice registered nurse services;

(c) laboratory and x-ray services;

(d) well-child and well-baby services;

(e) immunizations;

(f) clinic services;

(g) dental services;

(h) prescription drugs;

(i) mental health and substance abuse treatment services;

(j) habilitative services as defined in 53-4-1103;

(k) hearing and vision exams; and

(l) eyeglasses.

(2) The program must comply with the provisions of 33-22-153 and [section 1].

(3) The department shall adopt rules, pursuant to its authority under 53-4-1009, allowing it to cover

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1 significant dental needs beyond those covered in the basic plan. Expenditures under this subsection may not  
2 exceed \$100,000 in state funds, plus any matched federal funds, each fiscal year.

3 (4) The department is specifically prohibited from providing payment for birth control  
4 contraceptives under this program.

5 (5) The department shall notify enrollees of any restrictions on access to health care providers, of  
6 any restrictions on the availability of services by out-of-state providers, and of the methodology for an out-of-  
7 state provider to be an eligible provider. (Terminates on occurrence of contingency--sec. 15, Ch. 571, L. 1999;  
8 sec. 3, Ch. 169, L. 2007; sec. 10, Ch. 97, L. 2013; sec. 5, Ch. 399, L. 2017.)"

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10 **NEW SECTION. Section 3. Codification instruction.** [Section 1] is intended to be codified as an  
11 integral part of Title 53, chapter 6, part 1, and the provisions of Title 53, chapter 6, part 1, apply to [section 1].

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13 **NEW SECTION. Section 4. Effective date.** [This act] is effective July 1, 2023.

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