

By Representative Rich

1 A bill to be entitled
2 An act relating to health insurance; creating
3 the "Equity in Prescription Insurance and
4 Contraceptive Coverage Act"; providing
5 legislative findings and intent; providing
6 requirements with respect to plans provided by
7 religious health plan sponsors; creating ss.
8 627.64061 and 627.65741, F.S., and amending s.
9 641.31, F.S.; requiring certain health
10 insurance policies and health maintenance
11 contracts to provide coverage for prescription
12 oral contraceptives; amending s. 627.6515,
13 F.S.; applying certain requirements for group
14 coverage to out-of-state groups; amending s.
15 627.6699, F.S.; applying certain requirements
16 for group coverage relating to prescription
17 oral contraceptives to small employer carriers
18 issuing health benefit plans; providing an
19 effective date.

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21 WHEREAS, two charges of discrimination challenging an
22 employer's failure to provide health insurance coverage for
23 prescription oral contraceptives while covering a number of
24 other preventive drugs, devices, and services, were brought
25 before the United States Equal Employment Opportunity
26 Commission, and

27 WHEREAS, the charging parties sought to use
28 contraceptives both for birth control and other medical
29 purposes and were denied coverage for prescription oral
30 contraceptive drugs under their respective health plans, and
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1 WHEREAS, the commission found that the exclusions under
2 the respective health plans discriminates on the basis of sex
3 and pregnancy in violation of Title VII of the Civil Rights
4 Act of 1964, as amended by the Pregnancy Discrimination Act,
5 and

6 WHEREAS, the commission merely remanded the charges
7 back to the field for further processing in accordance with
8 the decision, leaving it up to employers, insurers, and health
9 plans to satisfy the conditions of the decision, and

10 WHEREAS, Florida must provide the Department of
11 Insurance with the statutory and regulatory authority to
12 compel employers, insurers, and health plans to comply with
13 the decision of the commission, NOW, THEREFORE,

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15 Be It Enacted by the Legislature of the State of Florida:

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17 Section 1. This act may be cited as the "Equity in
18 Prescription Insurance and Contraceptive Coverage Act."

19 Section 2. Legislative findings and intent.--

20 (1) The Legislature finds that:

21 (a) Each year, more than half of all pregnancies in
22 this state are unintended.

23 (b) Contraceptive services are part of basic health
24 care, allowing families to both adequately space desired
25 pregnancies and avoid unintended pregnancy.

26 (c) Contraceptives are highly cost-effective, yielding
27 from \$4 to \$14 in savings for every dollar expended.

28 (d) By reducing rates of unintended pregnancy,
29 contraceptives help reduce the need for abortions.

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1 (e) Unintended pregnancies lead to higher rates of
2 infant mortality, low birth weight, and maternal morbidity and
3 threaten the economic viability of families.

4 (f) Most women in this state of childbearing age rely
5 on private employment-related insurance to cover their medical
6 expenses.

7 (g) Most private insurers cover prescription drugs,
8 but many exclude coverage for prescription oral
9 contraceptives.

10 (h) The lack of contraceptive coverage in health
11 insurance policies places many effective forms of
12 contraceptives beyond the financial reach of many women,
13 leading to unintended pregnancies.

14 (2) Therefore, the Legislature determines that
15 enactment of this bill constitutes an important state
16 interest.

17 Section 3. Option for plans and policyholders of plans
18 provided by religious health plan sponsors.--

19 (1) GENERAL RULE.--Notwithstanding any other provision
20 of s. 627.64061 or s. 627.65741, Florida Statutes, a religious
21 health plan sponsor may provide a health plan that does not
22 provide benefits for prescription oral contraceptives that are
23 contrary to the religious tenets of the religion or religious
24 corporation, association, or society referred to in subsection
25 (3). Further, the requirements of s. 627.64061 or s.
26 627.65741, Florida Statutes, shall not apply to an individual
27 health care service plan contract or a group health care
28 service plan contract purchased by an employer that is a
29 religious health plan sponsor, including, but not limited to,
30 any church, religious school, religious association, or other
31 religious organization that is not organized for private

1 profit, if the provision of prescription oral contraceptives
2 under such sections is inconsistent with the religious beliefs
3 of the organization.

4 (2) EXCEPTION.--Nothing in this section shall be
5 construed as authorizing the exclusion of coverage under a
6 health plan of prescription oral contraceptives necessary to
7 preserve the life or health of the patient.

8 (3) DEFINITION.--As used in this section, the term
9 "religious health plan sponsor" means a health plan sponsor
10 that meets the definition of "church plan" under s. 3(33) of
11 the Employee Retirement Income Security Act of 1974.

12 (4) Nothing in this act shall be construed to require
13 coverage for chemically induced abortions.

14 Section 4. Section 627.64061, Florida Statutes, is
15 created to read:

16 627.64061 Coverage for prescription oral
17 contraceptives.--Any health insurance policy that provides
18 coverage for outpatient prescription drugs shall cover
19 prescription oral contraceptives approved by the federal Food
20 and Drug Administration and prescribed by a practitioner
21 authorized by state licensure to prescribe such medication.
22 Coverage must be provided to the same extent and subject to
23 the same contract terms, including copayments and deductibles,
24 as any other prescription drug.

25 Section 5. Paragraph (c) of subsection (2) of section
26 627.6515, Florida Statutes, is amended to read:

27 627.6515 Out-of-state groups.--

28 (2) This part does not apply to a group health
29 insurance policy issued or delivered outside this state under
30 which a resident of this state is provided coverage if:

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1 (c) The policy provides the benefits specified in ss.
2 627.419, 627.6574, 627.65741, 627.6575, 627.6579, 627.6612,
3 627.66121, 627.66122, 627.6613, 627.667, 627.6675, 627.6691,
4 and 627.66911.

5 Section 6. Section 627.65741, Florida Statutes, is
6 created to read:

7 627.65741 Coverage for prescription oral
8 contraceptives.--Any group, franchise, accident, or health
9 insurance policy that provides coverage for outpatient
10 prescription drugs shall cover prescription oral
11 contraceptives approved by the federal Food and Drug
12 Administration and prescribed by a practitioner authorized by
13 state licensure to prescribe such medication. Coverage must
14 be provided to the same extent and subject to the same
15 contract terms, including copayments and deductibles, as any
16 other prescription drug.

17 Section 7. Paragraph (b) of subsection (12) of section
18 627.6699, Florida Statutes, is amended to read:

19 627.6699 Employee Health Care Access Act.--

20 (12) STANDARD, BASIC, AND LIMITED HEALTH BENEFIT
21 PLANS.--

22 (b)1. Each small employer carrier issuing new health
23 benefit plans shall offer to any small employer, upon request,
24 a standard health benefit plan and a basic health benefit plan
25 that meets the criteria set forth in this section.

26 2. For purposes of this subsection, the terms
27 "standard health benefit plan" and "basic health benefit plan"
28 mean policies or contracts that a small employer carrier
29 offers to eligible small employers that contain:

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1 a. An exclusion for services that are not medically
2 necessary or that are not covered preventive health services;
3 and

4 b. A procedure for preauthorization by the small
5 employer carrier, or its designees.

6 3. A small employer carrier may include the following
7 managed care provisions in the policy or contract to control
8 costs:

9 a. A preferred provider arrangement or exclusive
10 provider organization or any combination thereof, in which a
11 small employer carrier enters into a written agreement with
12 the provider to provide services at specified levels of
13 reimbursement or to provide reimbursement to specified
14 providers. Any such written agreement between a provider and a
15 small employer carrier must contain a provision under which
16 the parties agree that the insured individual or covered
17 member has no obligation to make payment for any medical
18 service rendered by the provider which is determined not to be
19 medically necessary. A carrier may use preferred provider
20 arrangements or exclusive provider arrangements to the same
21 extent as allowed in group products that are not issued to
22 small employers.

23 b. A procedure for utilization review by the small
24 employer carrier or its designees.

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26 This subparagraph does not prohibit a small employer carrier
27 from including in its policy or contract additional managed
28 care and cost containment provisions, subject to the approval
29 of the department, which have potential for controlling costs
30 in a manner that does not result in inequitable treatment of
31 insureds or subscribers. The carrier may use such provisions

1 to the same extent as authorized for group products that are
2 not issued to small employers.

3 4. The standard health benefit plan shall include:
4 a. Coverage for inpatient hospitalization;
5 b. Coverage for outpatient services;
6 c. Coverage for newborn children pursuant to s.
7 627.6575;
8 d. Coverage for child care supervision services
9 pursuant to s. 627.6579;
10 e. Coverage for adopted children upon placement in the
11 residence pursuant to s. 627.6578;
12 f. Coverage for mammograms pursuant to s. 627.6613;
13 g. Coverage for handicapped children pursuant to s.
14 627.6615;
15 h. Emergency or urgent care out of the geographic
16 service area; and
17 i. Coverage for services provided by a hospice
18 licensed under s. 400.602 in cases where such coverage would
19 be the most appropriate and the most cost-effective method for
20 treating a covered illness.

21 5. The standard health benefit plan and the basic
22 health benefit plan may include a schedule of benefit
23 limitations for specified services and procedures. If the
24 committee develops such a schedule of benefits limitation for
25 the standard health benefit plan or the basic health benefit
26 plan, a small employer carrier offering the plan must offer
27 the employer an option for increasing the benefit schedule
28 amounts by 4 percent annually.

29 6. The basic health benefit plan shall include all of
30 the benefits specified in subparagraph 4.; however, the basic
31 health benefit plan shall place additional restrictions on the

1 benefits and utilization and may also impose additional cost
2 containment measures.

3 7. Sections 627.419(2), (3), and (4), 627.6574,
4 627.65741, 627.6612, 627.66121, 627.66122, 627.6616, 627.6618,
5 627.668, and 627.66911 apply to the standard health benefit
6 plan and to the basic health benefit plan. However,
7 notwithstanding said provisions, the plans may specify limits
8 on the number of authorized treatments, if such limits are
9 reasonable and do not discriminate against any type of
10 provider.

11 8. Each small employer carrier that provides for
12 inpatient and outpatient services by allopathic hospitals may
13 provide as an option of the insured similar inpatient and
14 outpatient services by hospitals accredited by the American
15 Osteopathic Association when such services are available and
16 the osteopathic hospital agrees to provide the service.

17 Section 8. Subsection (40) is added to section 641.31,
18 Florida Statutes, to read:

19 641.31 Health maintenance contracts.--

20 (40) Health maintenance contracts that provide
21 coverage for outpatient prescription drugs shall cover
22 prescription oral contraceptives approved by the federal Food
23 and Drug Administration and prescribed by a practitioner
24 authorized by state licensure to prescribe such medication
25 when such practitioner is under the organization's direct
26 employ or under contract or other arrangement with the
27 organization to provide health care services to subscribers.
28 Coverage must be provided to the same extent and subject to
29 the same contract terms, including copayments, as any other
30 prescription medication.

31 Section 9. This act shall take effect October 1, 2001.

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HOUSE SUMMARY

Creates the "Equity in Prescription Insurance and Contraceptive Coverage Act." Provides legislative findings and intent. Provides that a health maintenance contract, a health insurance policy, and any group, franchise, accident, or health insurance policy that provides coverage for outpatient prescription drugs must cover prescription oral contraceptives. Authorizes a religious health plan sponsor to provide a health plan that does not provide benefits for prescription oral contraceptives contrary to its beliefs.