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NINETIETH SESSION

S.F. No. 3101

(SENATE AUTHORS: PAPPAS, Bakk, Lourey, Kent and Hayden)

DATE	D-PG	OFFICIAL STATUS
03/08/2018	6362	Introduction and first reading Referred to Commerce and Consumer Protection Finance and Policy

A bill for an act

relating to health; requiring health plans to cover contraceptive methods, sterilization, and related medical services, patient education, and counseling; providing religious exemptions; proposing coding for new law in Minnesota Statutes, chapter 62Q.

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

Section 1. **[62Q.521] COVERAGE OF CONTRACEPTIVE METHODS AND SERVICES.**

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Contraceptive method" means a drug, device, or other product approved by the Food and Drug Administration to prevent unintended pregnancy.

(c) "Contraceptive service" means consultation, examination, procedures, and medical services related to the use of a contraceptive method, including natural family planning, to prevent an unintended pregnancy.

(d) "Therapeutic equivalent version" means a drug, device, or product that can be expected to have the same clinical effect and safety profile when administered to a patient under the condition specified in the labeling and that:

(1) is approved as safe and effective;

(2) is a pharmaceutical equivalent in that the drug, device, or product contains identical amounts of the same active drug ingredient in the same dosage form and route of administration, and the drug, device, or product meets compendial or other applicable standards of strength, quality, purity, and identity;

(3) is bioequivalent in that:

(i) the drug, device, or product does not present a known or potential bioequivalence problem and meets an acceptable in vitro standard; or

(ii) if the drug, device, or product does present a known or potential bioequivalence problem, it is shown to meet an appropriate bioequivalence standard;

(4) is adequately labeled; and

(5) is manufactured in compliance with current manufacturing practice regulations.

Subd. 2. **Required coverage; cost sharing prohibited.** (a) A health plan must provide coverage for:

(1) all contraceptive methods, including over-the-counter contraceptives, but excluding male condoms;

(2) voluntary sterilization procedures;

(3) contraceptive services, patient education, and counseling on contraception; and

(4) follow-up services related to contraceptive methods, voluntary sterilization procedures, and contraceptive services, including but not limited to management of side effects, counseling for continued adherence, and device insertion and removal.

(b) A health plan company shall not require any cost-sharing requirements, including co-pays, deductibles, and coinsurance, for the coverage required by this section.

(c) A health plan company shall not include any referral requirements or restrictions, or require a delay for the coverage required by this section.

(d) If the Food and Drug Administration has approved more than one therapeutic equivalent version of a contraceptive method, a health plan is not required to include more than one therapeutic equivalent version in its formulary.

(e) If a provider recommends a specific contraceptive method to an enrollee, the health plan company must provide coverage for the contraceptive method.

(f) If a contraceptive method is not covered by a health plan, the health plan company must provide enrollees with an easily accessible, transparent, and expedient process, that is not unduly burdensome to the enrollee, to request coverage of the contraceptive method by the health plan.

(g) Nothing in this section allows for the exclusion of coverage for a contraceptive method prescribed by a provider, acting within the provider's scope of practice, for reasons

other than contraceptive purposes, such as decreasing the risk of ovarian cancer or eliminating symptoms of menopause, or for contraception that is necessary to preserve the life or health of an enrollee.

Subd. 3. **Religious employers; exempt.** For purposes of this subdivision, a "religious employer" means an employer that is a nonprofit entity and meets the requirements of section 6033(a)(3)(A)(i) or (iii) of the Internal Revenue Code of 1986, as amended (2018). A religious employer is exempt from this section if the religious employer provides all employees and prospective employees with reasonable and timely notice of the exemption prior to their enrollment in the health plan. The notice must provide a list of the contraceptive methods the employer refuses to cover for religious reasons.

Subd. 4. **Accommodation for eligible organizations.** (a) An organization is an "eligible organization" if it:

(1) is a nonprofit entity that holds itself as a religious organization and opposes providing coverage for some or all contraceptive methods or services required to be covered by this section on account of religious objections; or

(2) is a closely held for-profit entity and the organization's highest governing body has adopted a resolution or similar action, under the organization's applicable rules of governance and consistent with state law, establishing that it objects to covering some or all of the contraceptive methods or services on account of the owners' sincerely held religious beliefs; and

(3) submits a notice to its health plan company stating that it qualifies as an eligible organization under this subdivision and that it has a religious objection to coverage for all, or a subset of, contraceptive methods or services.

(b) For purposes of paragraph (a), clause (2), a closely held for-profit entity is an entity that has:

(1) more than 50 percent of the value of its ownership interest owned directly or indirectly by five or fewer individuals, or has an ownership structure that is substantially similar; and

(2) no publicly traded ownership interest, meaning any class of common equity securities required to be registered under United States Code, chapter 15, section 78l.

(c) For purposes of paragraph (b), ownership interests owned by:

(1) a corporation, partnership, estate, or trust are considered owned proportionately by the entity's respective shareholders, partners, or beneficiaries;

(2) an individual are considered owned, directly or indirectly, by or for the individual's family. For purposes of this clause, "family" includes brothers and sisters, including half-brothers and half-sisters, a spouse, ancestors, and lineal descendants; and

(3) the person that holds the option to purchase an ownership interest are considered to be the owner of those ownership interests.

(d) A health plan company that receives the notice described in paragraph (a) must:

(1) exclude coverage of contraceptive methods and services, as requested by the eligible organization, from the health plan; and

(2) provide enrollees with a separate payment for any contraceptive methods and services that would be covered if the organization was not an eligible organization.

(e) The requirements of subdivision 2 apply to payments made by a health plan company under this subdivision.

EFFECTIVE DATE. This section is effective January 1, 2020, and applies to coverage offered, sold, issued, or renewed on or after that date.